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THE

WRITINGS

OF

THOMAS JEFFERSON:

BEING HIS

AUTOBIOGRAPHY, CORRESPONDENCE, REPORTS, MESSAGES, ADDRESSES, AND OTHER WRITINGS, OFFICIAL AND PRIVATE.

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BY THE EDITOR

H. A. WASHINGTON.

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PART II.

INAUGURAL ADDRESSES AND MESSAGES.

INAUGURATION ADDRESS.—March 4, 1801.

Friends and Fellow Citizens :—

Called upon to undertake the duties of the first executive office of our country, I avail myself of the presence of that portion of my fellow citizens which is here assembled, to express my grateful thanks for the favor with which they have been pleased to look toward me, to declare a sincere consciousness that the task is above my talents, and that I approach it with those anxious and awful presentiments which the greatness of the charge and the weakness of my powers so justly inspire. A rising nation, spread over a wide and fruitful land, traversing all the seas with the rich productions of their industry, engaged in commerce with nations who feel power and forget right, advancing rapidly to destinies beyond the reach of mortal eye—when I contemplate these transcendent objects, and see the honor, the happiness, and the hopes of this beloved country committed to the issue and the auspices of this day, I shrink from the contemplation, and humble myself before the magnitude of the undertaking. Utterly indeed, should I despair, did not the presence of many whom I here see remind me, that in the other high authorities provided by our constitution, I shall find resources of wisdom, of virtue, and of zeal. on which to rely under all diffi-

culties. To you, then, gentlemen, who are charged with the sovereign functions of legislation, and to those associated with you, I look with encouragement for that guidance and support which may enable us to steer with safety the vessel in which we are all embarked amid the conflicting elements of a troubled world.

During the contest of opinion through which we have passed, the animation of discussion and of exertions has sometimes worn an aspect which might impose on strangers unused to think freely and to speak and to write what they think; but this being now decided by the voice of the nation, announced according to the rules of the constitution, all will, of course, arrange themselves under the will of the law, and unite in common efforts for the common good. All, too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will, to be rightful, must be reasonable; that the minority possess their equal rights, which equal laws must protect, and to violate which would be oppression. Let us, then, fellow citizens, unite with one heart and one mind. Let us restore to social intercourse that harmony and affection without which liberty and even life itself are but dreary things. And let us reflect that having banished from our land that religious intolerance under which mankind so long bled and suffered, we have yet gained little if we countenance a political intolerance as despotic, as wicked, and capable of as bitter and bloody persecutions. During the throes and convulsions of the ancient world, during the agonizing spasms of infuriated man, seeking through blood and slaughter his long-lost liberty, it was not wonderful that the agitation of the billows should reach even this distant and peaceful shore; that this should be more felt and feared by some and less by others; that this should divide opinions as to measures of safety. But every difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all republicans—we are federalists. If there be any among us who would wish to dissolve this Union or to change its republican form, let them stand undisturbed as

monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it. I know, indeed, that some honest men fear that a republican government cannot be strong; that this government is not strong enough. But would the honest patriot, in the full tide of successful experiment, abandon a government which has so far kept us free and firm, on the theoretic and visionary fear that this government, the world's best hope, may by possibility want energy to preserve itself? I trust not. I believe this, on the contrary, the strongest government on earth. I believe it is the only one where every man, at the call of the laws, would fly to the standard of the law, and would meet invasions of the public order as his own personal concern. Sometimes it is said that man cannot be trusted with the government of himself. Can he, then, be trusted with the government of others? Or have we found angels in the forms of kings to govern him? Let history answer this question.

Let us, then, with courage and confidence pursue our own federal and republican principles, our attachment to our union and representative government. Kindly separated by nature and a wide ocean from the exterminating havoc of one quarter of the globe; too high-minded to endure the degradations of the others; possessing a chosen country, with room enough for our descendants to the hundredth and thousandth generation; entertaining a due sense of our equal right to the use of our own faculties, to the acquisitions of our industry, to honor and confidence from our fellow citizens, resulting not from birth but from our actions and their sense of them; enlightened by a benign religion, professed, indeed, and practiced in various forms, yet all of them including honesty, truth, temperance, gratitude, and the love of man; acknowledging and adoring an overruling Providence, which by all its dispensations proves that it delights in the happiness of man here and his greater happiness hereafter; with all these blessings, what more is necessary to make us a happy and prosperous people? Still one thing more, fellow citizens—a wise and frugal government, which shall restrain men from injuring

one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities.

About to enter, fellow citizens, on the exercise of duties which comprehend everything dear and valuable to you, it is proper that you should understand what I deem the essential principles of our government, and consequently those which ought to shape its administration. I will compress them within the narrowest compass they will bear, stating the general principle, but not all its limitations. Equal and exact justice to all men, of whatever state or persuasion, religious or political; peace, commerce, and honest friendship, with all nations—entangling alliances with none; the support of the state governments in all their rights, as the most competent administrations for our domestic concerns and the surest bulwarks against anti-republican tendencies; the preservation of the general government in its whole constitutional vigor, as the sheet anchor of our peace at home and safety abroad; a jealous care of the right of election by the people—a mild and safe corrective of abuses which are lopped by the sword of the revolution where peaceable remedies are unprovided; absolute acquiescence in the decisions of the majority—the vital principle of republics, from which there is no appeal but to force, the vital principle and immediate parent of despotism; a well-disciplined militia—our best reliance in peace and for the first moments of war, till regulars may relieve them; the supremacy of the civil over the military authority; economy in the public expense, that labor may be lightly burdened; the honest payment of our debts and sacred preservation of the public faith; encouragement of agriculture, and of commerce as its handmaid; the diffusion of information and the arraignment of all abuses at the bar of public reason; freedom of religion; freedom of the press; freedom of person under the protection of the *habeas corpus*; and trial by juries impartially selected—these principles form the bright constellation which has gone before us, and

guided our steps through an age of revolution and reformation. The wisdom of our sages and the blood of our heroes have been devoted to their attainment. They should be the creed of our political faith—the text of civil instruction—the touchstone by which to try the services of those we trust; and should we wander from them in moments of error or alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety.

I repair, then, fellow citizens, to the post you have assigned me. With experience enough in subordinate offices to have seen the difficulties of this, the greatest of all, I have learned to expect that it will rarely fall to the lot of imperfect man to retire from this station with the reputation and the favor which bring him into it. Without pretensions to that high confidence reposed in our first and great revolutionary character, whose preëminent services had entitled him to the first place in his country's love, and destined for him the fairest page in the volume of faithful history, I ask so much confidence only as may give firmness and effect to the legal administration of your affairs. I shall often go wrong through defect of judgment. When right, I shall often be thought wrong by those whose positions will not command a view of the whole ground. I ask your indulgence for my own errors, which will never be intentional; and your support against the errors of others, who may condemn what they would not if seen in all its parts. The approbation implied by your suffrage is a consolation to me for the past; and my future solicitude will be to retain the good opinion of those who have bestowed it in advance, to conciliate that of others by doing them all the good in my power, and to be instrumental to the happiness and freedom of all.

Relying, then, on the patronage of your good will, I advance with obedience to the work, ready to retire from it whenever you become sensible how much better choice it is in your power to make. And may that Infinite Power which rules the destinies of the universe, lead our councils to what is best, and give them a favorable issue for your peace and prosperity.

In communicating his first message to Congress, President Jefferson addressed the following letter to the presiding officer of each branch of the national legislature.]

December 8, 1801.

SIR: The circumstances under which we find ourselves placed rendering inconvenient the mode heretofore practised of making by personal address the first communication between the legislative and executive branches, I have adopted that by message, as used on all subsequent occasions through the session. In doing this, I have had principal regard to the convenience of the legislature, to the economy of their time, to their relief from the embarrassment of immediate answers on subjects not yet fully before them, and to the benefits thence resulting to the public affairs. Trusting that a procedure founded in these motives will meet their approbation, I beg leave, through you, sir, to communicate the enclosed message, with the documents accompanying it, to the honorable the senate, and pray you to accept, for yourself and them, the homage of my high respect and consideration.

The Hon. the President of the Senate.

FIRST ANNUAL MESSAGE.—DECEMBER 8, 1801.

Fellow Citizens of the Senate and House of Representatives:

IT is a circumstance of sincere gratification to me that on meeting the great council of our nation, I am able to announce to them, on the grounds of reasonable certainty, that the wars and troubles which have for so many years afflicted our sister nations have at length come to an end, and that the communications of peace and commerce are once more opening among them. While we devoutly return thanks to the beneficent Being who has been pleased to breathe into them the spirit of conciliation and forgiveness, we are bound with peculiar gratitude to be thankful to him that our own peace has been preserved through so perilous a season, and ourselves permitted quietly to cultivate the earth and to practice and improve those arts which tend to

increase our comforts. The assurances, indeed, of friendly disposition, received from all the powers with whom we have principal relations, had inspired a confidence that our peace with them would not have been disturbed. But a cessation of the irregularities which had affected the commerce of neutral nations, and of the irritations and injuries produced by them, cannot but add to this confidence; and strengthens, at the same time, the hope, that wrongs committed on unoffending friends, under a pressure of circumstances, will now be reviewed with candor, and will be considered as founding just claims of retribution for the past and new assurance for the future.

Among our Indian neighbors, also, a spirit of peace and friendship generally prevails; and I am happy to inform you that the continued efforts to introduce among them the implements and the practice of husbandry, and of the household arts, have not been without success; that they are becoming more and more sensible of the superiority of this dependence for clothing and subsistence over the precarious resources of hunting and fishing; and already we are able to announce, that instead of that constant diminution of their numbers, produced by their wars and their wants, some of them begin to experience an increase of population.

To this state of general peace with which we have been blessed, one only exception exists. Tripoli, the least considerable of the Barbary States, had come forward with demands unfounded either in right or in compact, and had permitted itself to denounce war, on our failure to comply before a given day. The style of the demand admitted but one answer. I sent a small squadron of frigates into the Mediterranean, with assurances to that power of our sincere desire to remain in peace, but with orders to protect our commerce against the threatened attack. The measure was seasonable and salutary. The bey had already declared war in form. His cruisers were out. Two had arrived at Gibraltar. Our commerce in the Mediterranean was blockaded, and that of the Atlantic in peril. The arrival of our squadron dispelled the danger. One of the Tripolitan

cruisers having fallen in with, and engaged the small schooner Enterprise, commanded by Lieutenant Sterret, which had gone as a tender to our larger vessels, was captured, after a heavy slaughter of her men, without the loss of a single one on our part. The bravery exhibited by our citizens on that element, will, I trust, be a testimony to the world that it is not the want of that virtue which makes us seek their peace, but a conscientious desire to direct the energies of our nation to the multiplication of the human race, and not to its destruction. Unauthorized by the constitution, without the sanction of Congress, to go beyond the line of defence, the vessel being disabled from committing further hostilities, was liberated with its crew. The legislature will doubtless consider whether, by authorizing measures of offence, also, they will place our force on an equal footing with that of its adversaries. I communicate all material information on this subject, that in the exercise of the important function confided by the constitution to the legislature exclusively, their judgment may form itself on a knowledge and consideration of every circumstance of weight.

I wish I could say that our situation with all the other Barbary states was entirely satisfactory. Discovering that some delays had taken place in the performance of certain articles stipulated by us, I thought it my duty, by immediate measures for fulfilling them, to vindicate to ourselves the right of considering the effect of departure from stipulation on their side. From the papers which will be laid before you, you will be enabled to judge whether our treaties are regarded by them as fixing at all the measure of their demands, or as guarding from the exercise of force our vessels within their power; and to consider how far it will be safe and expedient to leave our affairs with them in their present posture.

I lay before you the result of the census lately taken of our inhabitants, to a conformity with which we are to reduce the ensuing rates of representation and taxation. You will perceive that the increase of numbers during the last ten years, proceeding in geometrical ratio, promises a duplication in little more

than twenty-two years. We contemplate this rapid growth, and the prospect it holds up to us, not with a view to the injuries it may enable us to do to others in some future day, but to the settlement of the extensive country still remaining vacant within our limits, to the multiplications of men susceptible of happiness, educated in the love of order, habituated to self-government, and valuing its blessings above all price.

Other circumstances, combined with the increase of numbers, have produced an augmentation of revenue arising from consumption, in a ratio far beyond that of population alone, and though the changes of foreign relations now taking place so desirably for the world, may for a season affect this branch of revenue, yet, weighing all probabilities of expense, as well as of income, there is reasonable ground of confidence that we may now safely dispense with all the internal taxes, comprehending excises, stamps, auctions, licenses, carriages, and refined sugars, to which the postage on newspapers may be added, to facilitate the progress of information, and that the remaining sources of revenue will be sufficient to provide for the support of government, to pay the interest on the public debts, and to discharge the principals in shorter periods than the laws or the general expectations had contemplated. War, indeed, and untoward events, may change this prospect of things, and call for expenses which the imposts could not meet; but sound principles will not justify our taxing the industry of our fellow citizens to accumulate treasuse for wars to happen we know not when, and which might not perhaps happen but from the temptations offered by that treasure.

These views, however, of reducing our burdens, are formed on the expectation that a sensible, and at the same time a salutary reduction, may take place in our habitual expenditures. For this purpose, those of the civil government, the army, and navy, will need revisal.

When we consider that this government is charged with the external and mutual relations only of these states; that the states themselves have principal care of our persons, our property, and

our reputation, constituting the great field of human concerns, we may well doubt whether our organization is not too complicated, too expensive; whether offices and officers have not been multiplied unnecessarily, and sometimes injuriously to the service they were meant to promote. I will cause to be laid before you an essay toward a statement of those who, under public employment of various kinds, draw money from the treasury or from our citizens. Time has not permitted a perfect enumeration, the ramifications of office being too multiplied and remote to be completely traced in a first trial. Among those who are dependent on executive discretion, I have begun the reduction of what was deemed necessary. The expenses of diplomatic agency have been considerably diminished. The inspectors of internal revenue who were found to obstruct the accountability of the institution, have been discontinued. Several agencies created by executive authority, on salaries fixed by that also, have been suppressed, and should suggest the expediency of regulating that power by law, so as to subject its exercises to legislative inspection and sanction. Other reformations of the same kind will be pursued with that caution which is requisite in removing useless things, not to injure what is retained. But the great mass of public offices is established by law, and, therefore, by law alone can be abolished. Should the legislature think it expedient to pass this roll in review, and try all its parts by the test of public utility, they may be assured of every aid and light which executive information can yield. Considering the general tendency to multiply offices and dependencies, and to increase expense to the ultimate term of burden which the citizen can bear, it behooves us to avail ourselves of every occasion which presents itself for taking off the surcharge; that it never may be seen here that, after leaving to labor the smallest portion of its earnings on which it can subsist, government shall itself consume the residue of what it was instituted to guard.

In our care, too, of the public contributions intrusted to our direction, it would be prudent to multiply barriers against their

dissipation, by appropriating specific sums to every specific purpose susceptible of definition; by disallowing all applications of money varying from the appropriation in object, or transcending it in amount; by reducing the undefined field of contingencies, and thereby circumscribing discretionary powers over money; and by bringing back to a single department all accountabilities for money where the examination may be prompt, efficacious, and uniform.

An account of the receipts and expenditures of the last year, as prepared by the secretary of the treasury, will as usual be laid before you. The success which has attended the late sales of the public lands, shows that with attention they may be made an important source of receipt. Among the payments, those made in discharge of the principal and interest of the national debt, will show that the public faith has been exactly maintained. To these will be added an estimate of appropriations necessary for the ensuing year. This last will of course be effected by such modifications of the systems of expense, as you shall think proper to adopt.

A statement has been formed by the secretary of war, on mature consideration, of all the posts and stations where garrisons will be expedient, and of the number of men requisite for each garrison. The whole amount is considerably short of the present military establishment. For the surplus no particular use can be pointed out. For defence against invasion, their number is as nothing; nor is it conceived needful or safe that a standing army should be kept up in time of peace for that purpose. Uncertain as we must ever be of the particular point in our circumference where an enemy may choose to invade us, the only force which can be ready at every point and competent to oppose them, is the body of neighboring citizens as formed into a militia. On these, collected from the parts most convenient, in numbers proportioned to the invading foe, it is best to rely, not only to meet the first attack, but if it threatens to be permanent, to maintain the defence until regulars may be engaged to relieve them. These considerations render it important that we should

at every session continue to amend the defects which from time to time show themselves in the laws for regulating the militia, until they are sufficiently perfect. Nor should we now or at any time separate, until we can say we have done everything for the militia which we could do were an enemy at our door.

The provisions of military stores on hand will be laid before you, that you may judge of the additions still requisite.

With respect to the extent to which our naval preparations should be carried, some difference of opinion may be expected to appear; but just attention to the circumstances of every part of the Union will doubtless reconcile all. A small force will probably continue to be wanted for actual service in the Mediterranean. Whatever annual sum beyond that you may think proper to appropriate to naval preparations, would perhaps be better employed in providing those articles which may be kept without waste or consumption, and be in readiness when any exigence calls them into use. Progress has been made, as will appear by papers now communicated, in providing materials for seventy-four gun ships as directed by law.

How far the authority given by the legislature for procuring and establishing sites for naval purposes has been perfectly understood and pursued in the execution, admits of some doubt. A statement of the expenses already incurred on that subject, shall be laid before you. I have in certain cases suspended or slackened these expenditures, that the legislature might determine whether so many yards are necessary as have been contemplated. The works at this place are among those permitted to go on; and five of the seven frigates directed to be laid up, have been brought and laid up here, where, besides the safety of their position, they are under the eye of the executive administration, as well as of its agents, and where yourselves also will be guided by your own view in the legislative provisions respecting them which may from time to time be necessary. They are preserved in such condition, as well the vessels as whatever belongs to them, as to be at all times ready for sea on a short warning. Two others are yet to be laid up so soon as they shall have re-

ceived the repairs requisite to put them also into sound condition. As a superintending officer will be necessary at each yard, his duties and emoluments, hitherto fixed by the executive, will be a more proper subject for legislation. A communication will also be made of our progress in the execution of the law respecting the vessels directed to be sold.

The fortifications of our harbors, more or less advanced, present considerations of great difficulty. While some of them are on a scale sufficiently proportioned to the advantages of their position, to the efficacy of their protection, and the importance of the points within it, others are so extensive, will cost so much in their first erection, so much in their maintenance, and require such a force to garrison them, as to make it questionable what is best now to be done. A statement of those commenced or projected, of the expenses already incurred, and estimates of their future cost, so far as can be foreseen, shall be laid before you, that you may be enabled to judge whether any attention is necessary in the laws respecting this subject.

Agriculture, manufactures, commerce, and navigation, the four pillars of our prosperity, are the most thriving when left most free to individual enterprise. Protection from casual embarrassments, however, may sometimes be seasonably interposed. If in the course of your observations or inquiries they should appear to need any aid within the limits of our constitutional powers, your sense of their importance is a sufficient assurance they will occupy your attention. We cannot, indeed, but all feel an anxious solicitude for the difficulties under which our carrying trade will soon be placed. How far it can be relieved, otherwise than by time, is a subject of important consideration.

The judiciary system of the United States, and especially that portion of it recently erected, will of course present itself to the contemplation of Congress; and that they may be able to judge of the proportion which the institution bears to the business it has to perform, I have caused to be procured from the several States, and now lay before Congress, an exact statement of all the causes decided since the first establishment of the courts, and

of those which were depending when additional courts and judges were brought in to their aid.

And while on the judiciary organization, it will be worthy your consideration, whether the protection of the inestimable institution of juries has been extended to all the cases involving the security of our persons and property. Their impartial selection also being essential to their value, we ought further to consider whether that is sufficiently secured in those States where they are named by a marshal depending on executive will, or designated by the court or by officers dependent on them.

I cannot omit recommending a revisal of the laws on the subject of naturalization. Considering the ordinary chances of human life, a denial of citizenship under a residence of fourteen years is a denial to a great proportion of those who ask it, and controls a policy pursued from their first settlement by many of these States, and still believed of consequence to their prosperity. And shall we refuse the unhappy fugitives from distress that hospitality which the savages of the wilderness extended to our fathers arriving in this land? Shall oppressed humanity find no asylum on this globe? The constitution, indeed, has wisely provided that, for admission to certain offices of important trust, a residence shall be required sufficient to develop character and design. But might not the general character and capabilities of a citizen be safely communicated to every one manifesting a *bonâ fide* purpose of embarking his life and fortunes permanently with us? with restrictions, perhaps, to guard against the fraudulent usurpation of our flag; an abuse which brings so much embarrassment and loss on the genuine citizen, and so much danger to the nation of being involved in war, that no endeavor should be spared to detect and suppress it.

These, fellow citizens, are the matters respecting the state of the nation, which I have thought of importance to be submitted to your consideration at this time. Some others of less moment, or not yet ready for communication, will be the subject of separate messages. I am happy in this opportunity of committing the arduous affairs of our government to the collected wisdom

of the Union. Nothing shall be wanting on my part to inform, as far as in my power, the legislative judgment, nor to carry that judgment into faithful execution. The prudence and temperance of your discussions will promote, within your own walls, that conciliation which so much befriends rational conclusion; and by its example will encourage among our constituents that progress of opinion which is tending to unite them in object and in will. That all should be satisfied with any one order of things is not to be expected, but I indulge the pleasing persuasion that the great body of our citizens will cordially concur in honest and disinterested efforts, which have for their object to preserve the general and State governments in their constitutional form and equilibrium; to maintain peace abroad, and order and obedience to the laws at home; to establish principles and practices of administration favorable to the security of liberty and property, and to reduce expenses to what is necessary for the useful purposes of government.

SECOND ANNUAL MESSAGE.—DECEMBER 15, 1802.

To the Senate and House of Representatives of the United States:—

WHEN we assemble together, fellow citizens, to consider the state of our beloved country, our just attentions are first drawn to those pleasing circumstances which mark the goodness of that Being from whose favor they flow, and the large measure of thankfulness we owe for his bounty. Another year has come around, and finds us still blessed with peace and friendship abroad; law, order, and religion, at home; good affection and harmony with our Indian neighbors; our burdens lightened, yet our income sufficient for the public wants, and the produce of the year great beyond example. These, fellow citizens, are the circumstances under which we meet; and we remark with special satisfaction, those which, under the smiles of Providence, result

from the skill, industry and order of our citizens, managing their own affairs in their own way and for their own use, unembarrassed by too much regulations, unoppressed by fiscal exactions.

On the restoration of peace in Europe, that portion of the general carrying trade which had fallen to our share during the war, was abridged by the returning competition of the belligerent powers. This was to be expected, and was just. But in addition we find in some parts of Europe monopolizing discriminations, which, in the form of duties, tend effectually to prohibit the carrying thither our own produce in our own vessels. From existing amities, and a spirit of justice, it is hoped that friendly discussion will produce a fair and adequate reciprocity. But should false calculations of interest defeat our hope, it rests with the legislature to decide whether they will meet inequalities abroad with countervailing inequalities at home, or provide for the evil in any other way.

It is with satisfaction I lay before you an act of the British parliament anticipating this subject so far as to authorize a mutual abolition of the duties and countervailing duties permitted under the treaty of 1794. It shows on their part a spirit of justice and friendly accommodation which it is our duty and our interest to cultivate with all nations. Whether this would produce a due equality in the navigation between the two countries, is a subject for your consideration.

Another circumstance which claims attention, as directly affecting the very source of our navigation, is the defect or the evasion of the law providing for the return of seamen, and particularly of those belonging to vessels sold abroad. Numbers of them, discharged in foreign ports, have been thrown on the hands of our consuls, who, to rescue them from the dangers into which their distresses might plunge them, and save them to their country, have found it necessary in some cases to return them at the public charge.

The cession of the Spanish province of Louisiana to France, which took place in the course of the late war, will, if carried into effect, make a change in the aspect of our foreign relations

which will doubtless have a just weight in any deliberations of the legislature connected with that subject.

There was reason, not long since, to apprehend that the warfare in which we were engaged with Tripoli might be taken up by some others of the Barbary powers. A reinforcement, therefore, was immediately ordered to the vessels already there. Subsequent information, however, has removed these apprehensions for the present. To secure our commerce in that sea with the smallest force competent, we have supposed it best to watch strictly the harbor of Tripoli. Still, however, the shallowness of their coast, and the want of smaller vessels on our part, has permitted some cruisers to escape unobserved; and to one of these an American vessel unfortunately fell a prey. The captain, one American seamen, and two others of color, remain prisoners with them unless exchanged under an agreement formerly made with the bashaw, to whom, on the faith of that, some of his captive subjects had been restored.

The convention with the State of Georgia has been ratified by their legislature, and a repurchase from the Creeks has been consequently made of a part of the Tallahassee county. In this purchase has been also comprehended part of the lands within the fork of Oconee and Oakmulgee rivers. The particulars of the contract will be laid before Congress so soon as they shall be in a state for communication.

In order to remove every ground of difference possible with our Indian neighbors, I have proceeded in the work of settling with them and marking the boundaries between us. That with the Choctaw nation is fixed in one part, and will be through the whole in a short time. The country to which their title had been extinguished before the revolution is sufficient to receive a very respectable population, which Congress will probably see the expediency of encouraging so soon as the limits shall be declared. We are to view this position as an outpost of the United States, surrounded by strong neighbors and distant from its support. And how far that monopoly which prevents population should here be guarded against, and actual habitation made

a condition of the continuance of title, will be for your consideration. A prompt settlement, too, of all existing rights and claims within this territory, presents itself as a preliminary operation.

In that part of the Indian territory which includes Vincennes, the lines settled with the neighboring tribes fix the extinction of their title at a breadth of twenty-four leagues from east to west, and about the same length parallel with and including the Wabash. They have also ceded a tract of four miles square, including the salt springs near the mouth of the river.

In the department of finance it is with pleasure I inform you that the receipts of external duties for the last twelve months have exceeded those of any former year, and that the ratio of increase has been also greater than usual. This has enabled us to answer all the regular exigencies of government, to pay from the treasury in one year upward of eight millions of dollars, principal and interest, of the public debt, exclusive of upward of one million paid by the sale of bank stock, and making in the whole a reduction of nearly five millions and a half of principal; and to have now in the treasury four millions and a a half of dollars, which are in a course of application to a further discharge of debt and current demands. Experience, too, so far, authorizes us to believe, if no extraordinary event supervenes, and the expenses which will be actually incurred shall not be greater than were contemplated by Congress at their last session, that we shall not be disappointed in the expectations then formed. But nevertheless, as the effect of peace on the amount of duties is not yet fully ascertained, it is the more necessary to practice every useful economy, and to incur no expense which may be avoided without prejudice.

The collection of the internal taxes having been completed in some of the States, the officers employed in it are of course out of commission. In others, they will be so shortly. But in a few, where the arrangement for the direct tax had been retarded, it will still be some time before the system is closed. It has not yet been thought necessary to employ the agent authorized by

an act of the last session for transacting business in Europe relative to debts and loans. Nor have we used the power confided by the same act, of prolonging the foreign debts by reloans, and of redeeming, instead thereof, an equal sum of the domestic debt. Should, however, the difficulties of remittances on so large a scale render it necessary at any time, the power shall be executed, and the money thus unemployed abroad shall, in conformity with that law, be faithfully applied here in an equivalent extinction of domestic debt. When effects so salutary result from the plans you have already sanctioned, when merely by avoiding false objects of expense we are able, without a direct tax, without internal taxes, and without borrowing, to make large and effectual payments toward the discharge of our public debt and the emancipation of our posterity from that moral canker, it is an encouragement, fellow citizens, of the highest order, to proceed as we have begun, in substituting economy for taxation, and in pursuing what is useful for a nation placed as we are, rather than what is practiced by others under different circumstances. And whensoever we are destined to meet events which shall call forth all the energies of our countrymen, we have the firmest reliance on those energies, and the comfort of leaving for calls like these the extraordinary resources of loans and internal taxes. In the meantime, by payments of the principal of our debt, we are liberating, annually, portions of the external taxes, and forming from them a growing fund still further to lessen the necessity of recurring to extraordinary resources.

The usual accounts of receipts and expenditures for the last year, with an estimate of the expenses of the ensuing one, will be laid before you by the secretary of the treasury.

No change being deemed necessary in our military establishment, an estimate of its expenses for the ensuing year on its present footing, as also of the sums to be employed in fortifications and other objects within that department, has been prepared by the secretary of war, and will make a part of the general estimates which will be presented to you.

Considering that our regular troops are employed for local pur-

poses, and that the militia is our general reliance for great and sudden emergencies, you will doubtless think this institution worthy of a review, and give it those improvements of which you find it susceptible.

Estimates for the naval department, prepared by the secretary of the navy for another year, will in like manner be communicated with the general estimates. A small force in the Mediterranean will still be necessary to restrain the Tripoline cruisers, and the uncertain tenure of peace with some other of the Barbary powers, may eventually require that force to be augmented. The necessity of procuring some smaller vessels for that service will raise the estimate, but the difference in their maintenance will soon make it a measure of economy.

Presuming it will be deemed expedient to expend annually a sum towards providing the naval defence which our situation may require, I cannot but recommend that the first appropriations for that purpose may go to the saving what we already possess. No cares, no attentions, can preserve vessels from rapid decay which lie in water and exposed to the sun. These decays require great and constant repairs, and will consume, if continued, a great portion of the money destined to naval purposes. To avoid this waste of our resources, it is proposed to add to our navy-yard here a dock, within which our vessels may be laid up dry and under cover from the sun. Under these circumstances experience proves that works of wood will remain scarcely at all affected by time. The great abundance of running water which this situation possesses, at heights far above the level of the tide, if employed as is practised for lock navigation, furnishes the means of raising and laying up our vessels on a dry and sheltered bed. And should the measure be found useful here, similar depositories for laying up as well as for building and repairing vessels may hereafter be undertaken at other navy-yards offering the same means. The plans and estimates of the work, prepared by a person of skill and experience, will be presented to you without delay ; and from this it will be seen that scarcely more than has been the cost of one vessel is necessary to save the

whole, and that the annual sum to be employed toward its completion may be adapted to the views of the legislature as to naval expenditure.

To cultivate peace and maintain commerce and navigation in all their lawful enterprises; to foster our fisheries and nurseries of navigation and for the nurture of man, and protect the manufactures adapted to our circumstances; to preserve the faith of the nation by an exact discharge of its debts and contracts, expend the public money with the same care and economy we would practise with our own, and impose on our citizens no unnecessary burden; to keep in all things within the pale of our constitutional powers, and cherish the federal union as the only rock of safety—these, fellow-citizens, are the landmarks by which we are to guide ourselves in all our proceedings. By continuing to make these our rule of action, we shall endear to our countrymen the true principles of their constitution, and promote a union of sentiment and of action equally auspicious to their happiness and safety. On my part, you may count on a cordial concurrence in every measure for the public good, and on all the information I possess which may enable you to discharge to advantage the high functions with which you are invested by your country.

SPECIAL MESSAGE.—JANUARY 28, 1802.*

Gentlemen of the Senate and House of Representatives :—

I lay before you the accounts of our Indian trading houses, as rendered up to the first day of January, 1801, with a report of the secretary of war thereon, explaining the effects and the situation of that commerce, and the reasons in favor of its farther extension. But it is believed that the act authorizing this trade expired so long ago as the 3d of March, 1799. Its revival, therefore, as well as its extension, is submitted to the consideration of the legislature.

The act regulating trade and intercourse with the Indian

* See Confidential Message recommending a Western Exploring Expedition in Appendix, p. 241 of this volume.

tribes will also expire on the 3d day of March next. While on the subject of its continuance, it will be worthy the consideration of the legislature, whether the provisions of the law inflicting on Indians, in certain cases, the punishment of death by hanging, might not permit its commutation into death by military execution, the form of the punishment in the former way being peculiarly repugnant to their ideas, and increasing the obstacles to the surrender of the criminal.

These people are becoming very sensible of the baneful effects produced on their morals, their health and existence, by the abuse of ardent spirits, and some of them earnestly desire a prohibition of that article from being carried among them. The legislature will consider whether the effectuating that desire would not be in the spirit of benevolence and liberality which they have hitherto practised toward these our neighbors, and which has had so happy an effect toward conciliating their friendship. It has been found too, in experience, that the same abuse gives frequent rise to incidents tending much to commit our peace with the Indians.

It is now become necessary to run and mark the boundaries between them and us in various parts. The law last mentioned has authorized this to be done, but no existing appropriation meets the expense.

Certain papers, explanatory of the grounds of this communication, are herewith enclosed.

SPECIAL MESSAGE.—February 24, 1803.

Gentlemen of the Senate and House of Representatives :—

I lay before you a report of the secretary of state on the case of the Danish brigantine Henrick, taken by a French privateer in 1799, retaken by an armed vessel of the United States, carried into a British island and there adjudged to be neutral, but under an allowance of such salvage and costs as absorbed nearly the

whole amount of sales of the vessel and cargo. Indemnification for these losses, occasioned by our officers, is now claimed by the sufferers, supported by the representation of their government. I have no doubt the legislature will give to the subject that just attention and consideration which it is useful as well as honorable to practise in our transactions with other nations, and particularly with one which has observed toward us the most friendly treatment and regard.

THIRD ANNUAL MESSAGE—October 17, 1803.

To the Senate and House of Representatives of the United States :—

In calling you together, fellow citizens, at an earlier day than was contemplated by the act of the last session of Congress, I have not been insensible to the personal inconveniences necessarily resulting from an unexpected change in your arrangements. But matters of great public concernment have rendered this call necessary, and the interest you feel in these will supersede in your minds all private considerations.

Congress witnessed, at their last session, the extraordinary agitation produced in the public mind by the suspension of our right of deposit at the port of New Orleans, no assignment of another place having been made according to treaty. They were sensible that the continuance of that privation would be more injurious to our nation than any consequences which could flow from any mode of redress, but reposing just confidence in the good faith of the government whose officer had committed the wrong, friendly and reasonable representations were resorted to, and the right of deposit was restored.

Previous, however, to this period, we had not been unaware of the danger to which our peace would be perpetually exposed while so important a key to the commerce of the western country remained under foreign power. Difficulties, too, were pre-

senting themselves as to the navigation of other streams, which, arising within our territories, pass through those adjacent. Propositions had, therefore, been authorized for obtaining, on fair conditions, the sovereignty of New Orleans, and of other possessions in that quarter interesting to our quiet, to such extent as was deemed practicable; and the provisional appropriation of two millions of dollars, to be applied and accounted for by the president of the United States, intended as part of the price, was considered as conveying the sanction of Congress to the acquisition proposed. The enlightened government of France saw, with just discernment, the importance to both nations of such liberal arrangements as might best and permanently promote the peace, friendship, and interests of both; and the property and sovereignty of all Louisiana, which had been restored to them, have on certain conditions been transferred to the United States by instruments bearing date the 30th of April last. When these shall have received the constitutional sanction of the senate, they will without delay be communicated to the representatives also, for the exercise of their functions, as to those conditions which are within the powers vested by the constitution in Congress. While the property and sovereignty of the Mississippi and its waters secure an independent outlet for the produce of the western States, and an uncontrolled navigation through their whole course, free from collision with other powers and the dangers to our peace from that source, the fertility of the country, its climate and extent, promise in due season important aids to our treasury, an ample provision for our posterity, and a wide-spread field for the blessings of freedom and equal laws.

With the wisdom of Congress it will rest to take those ulterior measures which may be necessary for the immediate occupation and temporary government of the country; for its incorporation into our Union; for rendering the change of government a blessing to our newly-adopted brethren; for securing to them the rights of conscience and of property; for confirming to the Indian inhabitants their occupancy and self-government, establishing friendly and commercial relations with them, and for ascer-

taining the geography of the country acquired. Such materials for your information, relative to its affairs in general, as the short space of time has permitted me to collect, will be laid before you when the subject shall be in a state for your consideration.

Another important acquisition of territory has also been made since the last session of Congress. The friendly tribe of Kaskaskia Indians with which we have never had a difference, reduced by the wars and wants of savage life to a few individuals unable to defend themselves against the neighboring tribes, has transferred its country to the United States, reserving only for its members what is sufficient to maintain them in an agricultural way. The considerations stipulated are, that we shall extend to them our patronage and protection, and give them certain annual aids in money, in implements of agriculture, and other articles of their choice. This country, among the most fertile within our limits, extending along the Mississippi from the mouth of the Illinois to and up the Ohio, though not so necessary as a barrier since the acquisition of the other bank, may yet be well worthy of being laid open to immediate settlement, as its inhabitants may descend with rapidity in support of the lower country should future circumstances expose that to foreign enterprize. As the stipulations in this treaty also involve matters within the competence of both houses only, it will be laid before Congress as soon as the senate shall have advised its ratification.

With many other Indian tribes, improvements in agriculture and household manufacture are advancing, and with all our peace and friendship are established on grounds much firmer than heretofore. The measure adopted of establishing trading houses among them, and of furnishing them necessaries in exchange for their commodities, at such moderated prices as leave no gain, but cover us from loss, has the most conciliatory and useful effect upon them, and is that which will best secure their peace and good will.

The small vessels authorized by Congress with a view to the Mediterranean service, have been sent into that sea, and will be able more effectually to confine the Tripoline cruisers within

their harbors, and supersede the necessity of convoy to our commerce in that quarter. They will sensibly lessen the expenses of that service the ensuing year.

A further knowledge of the ground in the north-eastern and north-western angles of the United States has evinced that the boundaries established by the treaty of Paris, between the British territories and ours in those parts, were too imperfectly described to be susceptible of execution. It has therefore been thought worthy of attention, for preserving and cherishing the harmony and useful intercourse subsisting between the two nations, to remove by timely arrangements what unfavorable incidents might otherwise render a ground of future misunderstanding. A convention has therefore been entered into, which provides for a practicable demarkation of those limits to the satisfaction of both parties.

An account of the receipts and expenditures of the year ending 30th September last, with the estimates for the service of the ensuing year, will be laid before you by the secretary of the treasury so soon as the receipts of the last quarter shall be returned from the more distant States. It is already ascertained that the amount paid into the treasury for that year has been between eleven and twelve millions of dollars, and that the revenue accrued during the same term exceeds the sum counted on as sufficient for our current expenses, and to extinguish the public debt within the period heretofore proposed.

The amount of debt paid for the same year is about three millions one hundred thousand dollars, exclusive of interest, and making, with the payment of the preceding year, a discharge of more than eight millions and a half of dollars of the principal of that debt, besides the accruing interest; and there remain in the treasury nearly six millions of dollars. Of these, eight hundred and eighty thousand have been reserved for payment of the first instalment due under the British convention of January 8th, 1802, and two millions are what have been before mentioned as placed by Congress under the power and accountability of the president, toward the price of New Orleans and other territories

acquired, which, remaining untouched, are still applicable to that object, and go in diminution of the sum to be funded for it.

Should the acquisition of Louisiana be constitutionally confirmed and carried into effect, a sum of nearly thirteen millions of dollars will then be added to our public debt, most of which is payable after fifteen years; before which term the present existing debts will all be discharged by the established operation of the sinking fund. When we contemplate the ordinary annual augmentation of imposts from increasing population and wealth, the augmentation of the same revenue by its extension to the new acquisition, and the economies which may still be introduced into our public expenditures, I cannot but hope that Congress in reviewing their resources will find means to meet the intermediate interests of this additional debt without recurring to new taxes, and applying to this object only the ordinary progression of our revenue. Its extraordinary increase in times of foreign war will be the proper and sufficient fund for any measures of safety or precaution which that state of things may render necessary in our neutral position.

Remittances for the instalments of our foreign debt having been found practicable without loss, it has not been thought expedient to use the power given by a former act of Congress of continuing them by reloans, and of redeeming instead thereof equal sums of domestic debt, although no difficulty was found in obtaining that accommodation.

The sum of fifty thousand dollars appropriated by Congress for providing gun-boats, remains unexpended. The favorable and peaceful turn of affairs on the Mississippi rendered an immediate execution of that law unnecessary, and time was desirable in order that the institution of that branch of our force might begin on models the most approved by experience. The same issue of events dispensed with a resort to the appropriation of a million and a half of dollars contemplated for purposes which were effected by happier means.

We have seen with sincere concern the flames of war lighted up again in Europe, and nations with which we have the most

friendly and useful relations engaged in mutual destruction. While we regret the miseries in which we see others involved let us bow with gratitude to that kind Providence which, inspiring with wisdom and moderation our late legislative councils while placed under the urgency of the greatest wrongs, guarded us from hastily entering into the sanguinary contest, and left us only to look on and to pity its ravages. These will be heaviest on those immediately engaged. Yet the nations pursuing peace will not be exempt from all evil. In the course of this conflict, let it be our endeavor, as it is our interest and desire, to cultivate the friendship of the belligerent nations by every act of justice and of incessant kindness; to receive their armed vessels with hospitality from the distresses of the sea, but to administer the means of annoyance to none; to establish in our harbors such a police as may maintain law and order; to restrain our citizens from embarking individually in a war in which their country takes no part; to punish severely those persons, citizen or alien, who shall usurp the cover of our flag for vessels not entitled to it, infecting thereby with suspicion those of real Americans, and committing us into controversies for the redress of wrongs not our own; to exact from every nation the observance, toward our vessels and citizens, of those principles and practices which all civilized people acknowledge; to merit the character of a just nation, and maintain that of an independent one, preferring every consequence to insult and habitual wrong. Congress will consider whether the existing laws enable us efficaciously to maintain this course with our citizens in all places, and with others while within the limits of our jurisdiction, and will give them the new modifications necessary for these objects. Some contraventions of right have already taken place, both within our jurisdictional limits and on the high seas. The friendly disposition of the governments from whose agents they have proceeded, as well as their wisdom and regard for justice, leave us in reasonable expectation that they will be rectified and prevented in future; and that no act will be countenanced by them which threatens to disturb our friendly intercourse.

Separated by a wide ocean from the nations of Europe, and from the political interests which entangle them together, with productions and wants which render our commerce and friendship useful to them and theirs to us, it cannot be the interest of any to assail us, nor ours to disturb them. We should be most unwise, indeed, were we to cast away the singular blessings of the position in which nature has placed us, the opportunity she has endowed us with of pursuing, at a distance from foreign contentions, the paths of industry, peace, and happiness; of cultivating general friendship, and of bringing collisions of interest to the umpirage of reason rather than of force. How desirable then must it be, in a government like ours, to see its citizens adopt individually the views, the interests, and the conduct which their country should pursue, divesting themselves of those passions and partialities which tend to lessen useful friendships, and to embarrass and embroil us in the calamitous scenes of Europe. Confident, fellow citizens, that you will duly estimate the importance of neutral dispositions toward the observance of neutral conduct, that you will be sensible how much it is our duty to look on the bloody arena spread before us with commiseration indeed, but with no other wish than to see it closed, I am persuaded you will cordially cherish these dispositions in all discussions among yourselves, and in all communications with your constituents; and I anticipate with satisfaction the measures of wisdom which the great interests now committed to *you* will give you an opportunity of providing, and *myself* that of approving and carrying into execution with the fidelity I owe to my country.

SPECIAL MESSAGE.—October 21, 1803.

To the Senate and House of Representatives of the United States:--

In my communication to you of the 17th instant, I informed you that conventions had been entered into with the govern-

ment of France for the cession of Louisiana to the United States. These, with the advice and consent of the Senate, having now been ratified, and my ratification exchanged for that of the first consul of France in due form, they are communicated to you for consideration in your legislative capacity. You will observe that some important conditions cannot be carried into execution, but with the aid of the legislature ; and that time presses a decision on them without delay.

The ulterior provisions, also suggested in the same communication, for the occupation and government of the country, will call for early attention. Such information relative to its government, as time and distance have enabled me to obtain, will be ready to be laid before you within a few days. But, as permanent arrangements for this object may require time and deliberation, it is for your consideration whether you will not, forthwith, make such temporary provisions for the preservation, in the meanwhile, of order and tranquillity in the country, as the case may require.

SPECIAL MESSAGE.—November 4, 1803.

To the Senate and House of Representatives of the United States :—

By the copy now communicated of a letter from Captain Bainbridge of the Philadelphia frigate, to our consul at Gibraltar, you will learn that an act of hostility has been committed on a merchant vessel of the United States by an armed ship of the Emperor of Morocco. This conduct on the part of that power is without cause and without explanation. It is fortunate that Captain Bainbridge fell in with and took the capturing vessel and her prize ; and I have the satisfaction to inform you, that about the date of this transaction such a force would be arriving in the neighborhood of Gibraltar, both from the east and the west, as leaves less to be feared for our commerce from the suddenness of the aggression.

On the 4th of September, the Constitution frigate, Captain Preble, with Mr. Lear on board, was within two days' sail of Gibraltar, where the Philadelphia would then be arrived with her prize, and such explanations would probably be instituted as the state of thing required, and as might perhaps arrest the progress of hostilities.

In the meanwhile it is for Congress to consider the provisional authorities which may be necessary to restrain the depredations of this power, should they be continued.

SPECIAL MESSAGE.—November 25, 1803.

To the Senate and House of Representatives of the United States :—

The treaty with the Kaskaskia Indians being ratified with the advice and consent of the Senate, it is now laid before both houses, in their legislative capacity. It will inform them of the obligations which the United States thereby contract, and particularly that of taking the tribe under their future protection; and that the ceded country is submitted to their immediate possession and disposal.

SPECIAL MESSAGE.—December 5, 1803.

To the Senate and House of Representatives of the United States :—

I have the satisfaction to inform you that the act of hostility mentioned in my message of the 4th of November to have been committed by a cruiser of the emperor of Morocco on a vessel of the United States, has been disavowed by the emperor. All difficulties in consequence thereof have been amicably adjusted, and the treaty of 1786, between this country and that, has been recognized and confirmed by the emperor, each party

restoring to the other what had been detained or taken. I enclose the emperor's orders given on this occasion.

The conduct of our officers generally, who have had a part in these transactions, has merited entire approbation.

The temperate and correct course pursued by our consul, Mr. Simpson, the promptitude and energy of Commodore Preble, the efficacious co-operation of Captains Rodgers and Campbell of the returning squadron, the proper decision of Captain Bainbridge that a vessel which had committed an open hostility was of right to be detained for inquiry and consideration, and the general zeal of the other officers and men, are honorable facts which I make known with pleasure. And to these I add what was indeed transacted in another quarter—the gallant enterprise of Captain Rodgers in destroying, on the coast of Tripoli, a corvette of that power, of twenty-two guns.

I recommended to the consideration of Congress a just indemnification for the interest acquired by the captors of the Mishouda and Mirboha, yielded by them for the public accommodation.

SPECIAL MESSAGE.—January 16, 1804.

To the Senate and House of Representatives of the United States :—

In execution of the act of the present session of Congress for taking possession of Louisiana, as ceded to us by France, and for the temporary government thereof, Governor Claiborne, of the Mississippi territory, and General Wilkinson, were appointed commissioners to receive possession. They proceeded with such regular troops as had been assembled at Fort Adams, from the nearest posts, and with some militia of the Mississippi territory. to New Orleans. To be prepared for anything unexpected, which might arise out of the transaction, a respectable body of militia was ordered to be in readiness, in the States of Ohio, Kentucky, and Tennessee, and a part of those of Tennessee

was moved on to Natchez. No occasion, however, arose for their services. Our commissioners, on their arrival at New Orleans, found the province already delivered by the commissaries of Spain to that of France, who delivered it over to them on the twentieth day of December, as appears by their declaratory act accompanying it. Governor Claiborne being duly invested with the powers heretofore exercised by the governor and intendant of Louisiana, assumed the government on the same day, and for the maintenance of law and order, immediately issued the proclamation and address now communicated.

On this important acquisition, so favorable to the immediate interests of our western citizens, so auspicious to the peace and security of the nation in general, which adds to our country territories so extensive and fertile, and to our citizens new brethren to partake of the blessings of freedom and self-government, I offer to Congress and the country, my sincere congratulations.

SPECIAL MESSAGE.—March 20, 1804.

To the Senate and House of Representatives of the United States :—

I communicate to Congress, a letter received from Captain Bainbridge, commander of the Philadelphia frigate, informing us of the wreck of that vessel on the coast of Tripoli, and that himself, his officers, and men, had fallen into the hands of the Tripolitans. This accident renders it expedient to increase our force, and enlarge our expenses in the Mediterranean beyond what the last appropriation for the naval service contemplated. I recommend, therefore, to the consideration of Congress, such an addition to that appropriation as they may think the exigency requires.

FOURTH ANNUAL MESSAGE.—November 8, 1804.

To the Senate and House of Representatives of the United States :—

To a people, fellow citizens, who sincerely desire the happiness and prosperity of other nations; to those who justly calculate that their own well-being is advanced by that of the nations with which they have intercourse, it will be a satisfaction to observe that the war which was lighted up in Europe a little before our last meeting has not yet extended its flames to other nations, nor been marked by the calamities which sometimes stain the footsteps of war. The irregularities too on the ocean, which generally harass the commerce of neutral nations, have, in distant parts, disturbed ours less than on former occasions. But in the American seas they have been greater from peculiar causes; and even within our harbors and jurisdiction, infringements on the authority of the laws have been committed which have called for serious attention. The friendly conduct of the governments from whose officers and subjects these acts have proceeded, in other respects and in places more under their observation and control, gives us confidence that our representations on this subject will have been properly regarded.

While noticing the irregularities committed on the ocean by others, those on our own part should not be omitted nor left unprovided for. Complaints have been received that persons residing within the United States have taken on themselves to arm merchant vessels, and to force a commerce into certain ports and countries in defiance of the laws of those countries. That individuals should undertake to wage private war, independently of the authority of their country, cannot be permitted in a well-ordered society. Its tendency to produce aggression on the laws and rights of other nations, and to endanger the peace of our own is so obvious, that I doubt not you will adopt measures for restraining it effectually in future.

Soon after the passage of the act of the last session, authorizing the establishment of a district and port of entry on the waters

of the Mobile, we learnt that its object was misunderstood on the part of Spain. Candid explanations were immediately given, and assurances that, reserving our claims in that quarter as a subject of discussion and arrangement with Spain, no act was meditated, in the meantime, inconsistent with the peace and friendship existing between the two nations, and that conformably to these intentions would be the execution of the law. That government had, however, thought proper to suspend the ratification of the convention of 1802. But the explanations which would reach them soon after, and still more, the confirmation of them by the tenor of the instrument establishing the port and district, may reasonably be expected to replace them in the dispositions and views of the whole subject which originally dictated the conviction.

I have the satisfaction to inform you that the objections which had been urged by that government against the validity of our title to the country of Louisiana have been withdrawn, its exact limits, however, remaining still to be settled between us. And to this is to be added that, having prepared and delivered the stock created in execution of the convention of Paris, of April 30, 1803, in consideration of the cession of that country, we have received from the government of France an acknowledgment, in due form, of the fulfilment of that stipulation.

With the nations of Europe in general our friendship and intercourse are undisturbed, and from the governments of the belligerent powers especially we continue to receive those friendly manifestations which are justly due to an honest neutrality, and to such good offices consistent with that as we have opportunities of rendering.

The activity and success of the small force employed in the Mediterranean in the early part of the present year, the reinforcement sent into that sea, and the energy of the officers having command in the several vessels, will, I trust, by the sufferings of war, reduce the barbarians of Tripoli to the desire of peace on proper terms. Great injury, however, ensues to ourselves as well as to others interested, from the distance to which

prizes must be brought for adjudication, and from the impracticability of bringing hither such as are not seaworthy.

The bey of Tunis having made requisitions unauthorized by our treaty, their rejection has produced from him some expressions of discontent. But to those who expect us to calculate whether a compliance with unjust demands will not cost us less than a war, we must leave as a question of calculation for them, also, whether to retire from unjust demands will not cost them less than a war. We can do to each other very sensible injuries by war, but the mutual advantages of peace make that the best interest of both.

Peace and intercourse with the other powers on the same coast continue on the footing on which they are established by treaty.

In pursuance of the act providing for the temporary government of Louisiana, the necessary officers for the territory of Orleans were appointed in due time, to commence the exercise of their functions on the first day of October. The distance, however, of some of them, and indispensable previous arrangements, may have retarded its commencement in some of its parts; the form of government thus provided having been considered but as temporary, and open to such improvements as further information of the circumstances of our brethren there might suggest, it will of course be subject to your consideration.

In the district of Louisiana, it has been thought best to adopt the division into subordinate districts, which had been established under its former government. These being five in number, a commanding officer has been appointed to each, according to the provision of the law, and so soon as they can be at their station, that district will also be in its due state of organization; in the meantime their places are supplied by the officers before commanding there. The functions of the governor and judges of Indiana have commenced; the government, we presume, is proceeding in its new form. The lead mines in that district offer so rich a supply of that metal, as to merit attention. The re-

port now communicated will inform you of their state, and of the necessity of immediate inquiry into their occupation and titles.

With the Indian tribes established within our newly-acquired limits, I have deemed it necessary to open conferences for the purpose of establishing a good understanding and neighborly relations between us. So far as we have yet learned, we have reason to believe that their dispositions are generally favorable and friendly; and with these dispositions on their part, we have in our own hands means which cannot fail us for preserving their peace and friendship. By pursuing a uniform course of justice toward them, by aiding them in all the improvements which may better their condition, and especially by establishing a commerce on terms which shall be advantageous to them and only not losing to us, and so regulated as that no incendiaries of our own or any other nation may be permitted to disturb the natural effects of our just and friendly offices, we may render ourselves so necessary to their comfort and prosperity, that the protection of our citizens from their disorderly members will become their interest and their voluntary care. Instead, therefore, of an augmentation of military force proportioned to our extension of frontier, I proposed a moderate enlargement of the capital employed in that commerce, as a more effectual, economical, and humane instrument for preserving peace and good neighborhood with them.

On this side the Mississippi an important relinquishment of native title has been received from the Delawares. That tribe, desiring to extinguish in their people the spirit of hunting, and to convert superfluous lands into the means of improving what they retain, have ceded to us all the country between the Wabash and the Ohio, south of, and including the road from the rapids towards Vincennes, for which they are to receive annuities in animals and implements for agriculture, and in other necessaries. This acquisition is important, not only for its extent and fertility, but as fronting three hundred miles on the Ohio, and near half that on the Wabash. The produce of the set-

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tled countries descending those rivers, will no longer pass in review of the Indian frontier but in a small portion, and with the cession heretofore made with the Kaskaskias, nearly consolidates our possessions north of the Ohio, in a very respectable breadth, from Lake Erie to the Mississippi. The Piankeshaws having some claim to the country ceded by the Delawares, it has been thought best to quiet that by fair purchase also. So soon as the treaties on this subject shall have received their constitutional sanctions, they shall be laid before both houses.

The act of Congress of February 28th, 1803, for building and employing a number of gun-boats, is now in a course of execution to the extent there provided for. The obstacle to naval enterprise which vessels of this construction offer for our seaport towns; their utility toward supporting within our waters the authority of the laws; the promptness with which they will be manned by the seamen and militia of the place the moment they are wanting; the facility of their assembling from different parts of the coast to any point where they are required in greater force than ordinary; the economy of their maintenance and preservation from decay when not in actual service; and the competence of our finances to this defensive provision, without any new burden, are considerations which will have due weight with Congress in deciding on the expediency of adding to their number from year to year, as experience shall test their utility, until all our important harbors, by these and auxiliary means, shall be insured against insult and opposition to the laws.

No circumstance has arisen since your last session which calls for any augmentation of our regular military force. Should any improvement occur in the militia system, that will be always seasonable.

Accounts of the receipts and expenditures of the last year, with estimates for the ensuing one, will as usual be laid before you.

The state of our finances continue to fulfil our expectations. Eleven millions and a half of dollars, received in the course of the year ending on the 30th of September last, have enabled us,

after meeting all the ordinary expenses of the year, to pay upward of $3,600,000 of the public debt, exclusive of interest. This payment, with those of the two preceding years, has extinguished upward of twelve millions of the principal, and a greater sum of interest, within that period; and by a proportional diminution of interest, renders already sensible the effect of the growing sum yearly applicable to the discharge of the principal.

It is also ascertained that the revenue accrued during the last year, exceeds that of the preceding; and the probable receipts of the ensuing year may safely be relied on as sufficient, with the sum already in the treasury, to meet all the current demands of the year, to discharge upward of three millions and a half of the engagements incurred under the British and French conventions, and to advance in the farther redemption of the funded debts as rapidly as had been contemplated. These, fellow citizens, are the principal matters which I have thought it necessary at this time to communicate for your consideration and attention. Some others will be laid before you in the course of the session, but in the discharge of the great duties confided to you by our country, you will take a broader view of the field of legislation. Whether the great interests of agriculture, manufactures, commerce, or navigation, can, within the pale of your constitutional powers, be aided in any of their relations; whether laws are provided in all cases where they are wanting; whether those provided are exactly what they should be; whether any abuses take place in their administration, or in that of the public revenues; whether the organization of the public agents or of the public force is perfect in all its parts; in fine, whether anything can be done to advance the general good, are questions within the limits of your functions which will necessarily occupy your attention. In these and other matters which you in your wisdom may propose for the good of our country, you may count with assurance on my hearty co-operation and faithful execution.

SECOND INNAUGURAL ADDRESS.—March 4, 1805.

Proceeding, fellow citizens, to that qualification which the constitution requires, before my entrance on the charge again conferred upon me, it is my duty to express the deep sense I entertain of this new proof of confidence from my fellow citizens at large, and the zeal with which it inspires me, so to conduct myself as may best satisfy their just expectations.

On taking this station on a former occasion, I declared the principles on which I believed it my duty to administer the affairs of our commonwealth. My conscience tells me that I have, on every occasion, acted up to that declaration, according to its obvious import, and to the understanding of every candid mind.

In the transaction of your foreign affairs, we have endeavored to cultivate the friendship of all nations, and especially of those with which we have the most important relations. We have done them justice on all occasions, favored where favor was lawful, and cherished mutual interests and intercourse on fair and equal terms. We are firmly convinced, and we act on that conviction, that with nations, as with individuals, our interests soundly calculated, will ever be found inseparable from our moral duties; and history bears witness to the fact, that a just nation is taken on its word, when recourse is had to armaments and wars to bridle others.

At home, fellow citizens, you best know whether we have done well or ill. The suppression of unnecessary offices, of useless establishments and expenses, enabled us to discontinue our internal taxes. These covering our land with officers, and opening our doors to their intrusions, had already begun that process of domiciliary vexation which, once entered, is scarcely to be restrained from reaching successively every article of produce and property. If among these taxes some minor ones fell which had not been inconvenient, it was because their amount would not have paid the officers who collected them, and because, if they had any merit, the state authorities might adopt them, instead of others less approved.

The remaining revenue on the consumption of foreign articles, is paid cheerfully by those who can afford to add foreign luxuries to domestic comforts, being collected on our seaboards and frontiers only, and incorporated with the transactions of our mercantile citizens, it may be the pleasure and pride of an American to ask, what farmer, what mechanic, what laborer, ever sees a tax-gatherer of the United States? These contributions enable us to support the current expenses of the government, to fulfil contracts with foreign nations, to extinguish the native right of soil within our limits, to extend those limits, and to apply such a surplus to our public debts, as places at a short day their final redemption, and that redemption once effected, the revenue thereby liberated may, by a just repartition among the states, and a corresponding amendment of the constitution, be applied, *in time of peace*, to rivers, canals, roads, arts, manufactures, education, and other great objects within each state. *In time of war*, if injustice, by ourselves or others, must sometimes produce war, increased as the same revenue will be increased by population and consumption, and aided by other resources reserved for that crisis, it may meet within the year all the expenses of the year, without encroaching on the rights of future generations, by burdening them with the debts of the past. War will then be but a suspension of useful works, and a return to a state of peace, a return to the progress of improvement.

I have said, fellow citizens, that the income reserved had enabled us to extend our limits; but that extension may possibly pay for itself before we are called on, and in the meantime, may keep down the accruing interest; in all events, it will repay the advances we have made. I know that the acquisition of Louisiana has been disapproved by some, from a candid apprehension that the enlargement of our territory would endanger its union. But who can limit the extent to which the federative principle may operate effectively? The larger our association, the less will it be shaken by local passions; and in any view, is it not better that the opposite bank of the Mississippi should be settled by our own brethren and children, than by strangers of another fam-

ily? With which shall we be most likely to live in harmony and friendly intercourse?

In matters of religion, I have considered that its free exercise is placed by the constitution independent of the powers of the general government. I have therefore undertaken, on no occasion, to prescribe the religious exercises suited to it; but have left them, as the constitution found them, under the direction and discipline of state or church authorities acknowledged by the several religious societies.

The aboriginal inhabitants of these countries I have regarded with the commiseration their history inspires. Endowed with the faculties and the rights of men, breathing an ardent love of liberty and independence, and occupying a country which left them no desire but to be undisturbed, the stream of overflowing population from other regions directed itself on these shores; without power to divert, or habits to contend against, they have been overwhelmed by the current, or driven before it; now reduced within limits too narrow for the hunter's state, humanity enjoins us to teach them agriculture and the domestic arts; to encourage them to that industry which alone can enable them to maintain their place in existence, and to prepare them in time for that state of society, which to bodily comforts adds the improvement of the mind and morals. We have therefore liberally furnished them with the implements of husbandry and household use; we have placed among them instructors in the arts of first necessity; and they are covered with the ægis of the law against aggressors from among ourselves.

But the endeavors to enlighten them on the fate which awaits their present course of life, to induce them to exercise their reason, follow its dictates, and change their pursuits with the change of circumstances, have powerful obstacles to encounter; they are combated by the habits of their bodies, prejudice of their minds, ignorance, pride, and the influence of interested and crafty individuals among them, who feel themselves something in the present order of things, and fear to become nothing in any other. These persons inculcate a sanctimonious reverence for

the customs of their ancestors; that whatsoever they did, must be done through all time; that reason is a false guide, and to advance under its counsel, in their physical, moral, or political condition, is perilous innovation; that their duty is to remain as their Creator made them, ignorance being safety, and knowledge full of danger; in short, my friends, among them is seen the action and counteraction of good sense and bigotry; they, too, have their anti-philosophers, who find an interest in keeping things in their present state, who dread reformation, and exert all their faculties to maintain the ascendency of habit over the duty of improving our reason, and obeying its mandates.

In giving these outlines, I do not mean, fellow citizens, to arrogate to myself the merit of the measures; that is due, in the first place, to the reflecting character of our citizens at large, who, by the weight of public opinion, influence and strengthen the public measures; it is due to the sound discretion with which they select from among themselves those to whom they confide the legislative duties; it is due to the zeal and wisdom of the characters thus selected, who lay the foundations of public happiness in wholesome laws, the execution of which alone remains for others; and it is due to the able and faithful auxiliaries, whose patriotism has associated with me in the executive functions.

During this course of administration, and in order to disturb it, the artillery of the press has been levelled against us, charged with whatsoever its licentiousness could devise or dare. These abuses of an institution so important to freedom and science, are deeply to be regretted, inasmuch as they tend to lessen its usefulness, and to sap its safety; they might, indeed, have been corrected by the wholesome punishments reserved and provided by the laws of the several States against falsehood and defamation; but public duties more urgent press on the time of public servants, and the offenders have therefore been left to find their punishment in the public indignation.

Nor was it uninteresting to the world, that an experiment should be fairly and fully made, whether freedom of discussion, unaided by power, is not sufficient for the propagation and pro-

tection of truth—whether a government, conducting itself in the true spirit of its constitution, with zeal and purity, and doing no act which it would be unwilling the whole world should witness, can be written down by falsehood and defamation. The experiment has been tried; you have witnessed the scene; our fellow citizens have looked on, cool and collected; they saw the latent source from which these outrages proceeded; they gathered around their public functionaries, and when the constitution called them to the decision by suffrage, they pronounced their verdict, honorable to those who had served them, and consolatory to the friend of man, who believes he may be intrusted with his own affairs.

No inference is here intended, that the laws, provided by the State against false and defamatory publications, should not be enforced; he who has time, renders a service to public morals and public tranquillity, in reforming these abuses by the salutary coercions of the law; but the experiment is noted, to prove that, since truth and reason have maintained their ground against false opinions in league with false facts, the press, confined to truth, needs no other legal restraint; the public judgment will correct false reasonings and opinions, on a full hearing of all parties; and no other definite line can be drawn between the inestimable liberty of the press and its demoralizing licentiousness. If there be still improprieties which this rule would not restrain, its supplement must be sought in the censorship of public opinion.

Contemplating the union of sentiment now manifested so generally, as auguring harmony and happiness to our future course, I offer to our country sincere congratulations. With those, too, not yet rallied to the same point, the disposition to do so is gaining strength; facts are piercing through the veil drawn over them; and our doubting brethren will at length see, that the mass of their fellow citizens, with whom they cannot yet resolve to act, as to principles and measures, think as they think, and desire what they desire; that our wish, as well as theirs, is, that the public efforts may be directed honestly to the public good, that peace be cultivated, civil and religious liberty unassailed, law and

order preserved, equality of rights maintained, and that state of property, equal or unequal, which results to every man from his own industry, or that of his fathers. When satisfied of these views, it is not in human nature that they should not approve and support them; in the meantime, let us cherish them with patient affection; let us do them justice, and more than justice, in all competitions of interest; and we need not doubt that truth, reason, and their own interests, will at length prevail, will gather them into the fold of their country, and will complete their entire union of opinion, which gives to a nation the blessing of harmony, and the benefit of all its strength.

I shall now enter on the duties to which my fellow citizens have again called me, and shall proceed in the spirit of those principles which they have approved. I fear not that any motives of interest may lead me astray; I am sensible of no passion which could seduce me knowingly from the path of justice; but the weakness of human nature, and the limits of my own understanding, will produce errors of judgment sometimes injurious to your interests. I shall need, therefore, all the indulgence I have heretofore experienced—the want of it will certainly not lessen with increasing years. I shall need, too, the favor of that Being in whose hands we are, who led our forefathers, as Israel of old, from their native land, and planted them in a country flowing with all the necessaries and comforts of life; who has covered our infancy with his providence, and our riper years with his wisdom and power; and to whose goodness I ask you to join with me in supplications, that he will so enlighten the minds of your servants, guide their councils, and prosper their measures, that whatsoever they do, shall result in your good, and shall secure to you the peace, friendship, and approbation of all nations.

FIFTH ANNUAL MESSAGE.—DECEMBER 3, 1805.

To the Senate and House of Representatives of the United States :—

At a moment when the nations of Europe are in commotion and arming against each other, and when those with whom we have principal intercourse are engaged in the general contest, and when the countenance of some of them toward our peaceable country threatens that even that may not be unaffected by what is passing on the general theatre, a meeting of the representatives of the nation in both houses of Congress has become more than usually desirable. Coming from every section of our country, they bring with them the sentiments and the information of the whole, and will be enabled to give a direction to the public affairs which the will and wisdom of the whole will approve and support.

In taking a view of the state of our country, we in the first place notice the late affliction of two of our cities under the fatal fever which in latter times has occasionally visited our shores. Providence in his goodness gave it an early termination on this occasion, and lessened the number of victims which have usually fallen before it. In the course of the several visitations by this disease it has appeared that it is strictly local; incident to the cities and on the tide waters only; incommunicable in the country, either by persons under the disease or by goods carried from diseased places; that its access is with the autumn, and that it disappears with the early frosts. These restrictions within narrow limits of time and space give security even to our maritime cities during three-fourths of the year, and to the country always. Although from these facts it appears unnecessary, yet to satisfy the fears of foreign nations, and cautions on their part not to be complained of in a danger whose limits are yet unknown to them, I have strictly enjoined on the officers at the head of the customs to certify with exact truth for every vessel sailing for a foreign port, the state of health respecting this fever which prevails at the place from which she sails. Under every

motive from character and duty to certify the truth, I have no doubt they have faithfully executed this injunction. Much real injury has, however, been sustained from a propensity to identify with this epidemic, and to call by the same name, fevers of very different kinds, which have been known at all times and in all countries, and never have been placed among those deemed contageous. As we advance in our knowledge of this disease, as facts develop the sources from which individuals receive it, the state authorities charged with the care of the public health, and Congress with that of the general commerce, will become able to regulate with effect their respective functions in these departments. The burden of quarantines is felt at home as well as abroad; their efficacy merits examination. Although the health laws of the States should be found to need no present revisal by Congress, yet commerce claims that their attention be ever awake to them.

Since our last meeting the aspect of our foreign relations has considerably changed. Our coasts have been infested and our harbors watched by private armed vessels, some of them without commissions, some with illegal commissions, others with those of legal form but committing piratical acts beyond the authority of their commissions. They have captured in the very entrance of our harbors, as well as on the high seas, not only the vessels of our friends coming to trade with us, but our own also. They have carried them off under pretence of legal adjudication, but not daring to approach a court of justice, they have plundered and sunk them by the way, or in obscure places where no evidence could arise against them; maltreated the crews, and abandoned them in boats in the open sea or on desert shores without food or covering. These enormities appearing to be unreached by any control of their sovereigns, I found it necessary to equip a force to cruise within our own seas, to arrest all vessels of these descriptions found hovering on our coast within the limits of the Gulf Stream, and to bring the offenders in for trial as pirates.

The same system of hovering on our coasts and harbors under color of seeking enemies, has been also carried on by public

armed ships, to the great annoyance and oppression of our commerce. New principles, too, have been interloped into the law of nations, founded neither in justice nor the usage or acknowledgment of nations. According to these, a belligerent takes to himself a commerce with its own enemy which it denies to a neutral, on the ground of its aiding that enemy in the war. But reason revolts at such an inconsistency, and the neutral having equal right with the belligerent to decide the question, the interest of our constituents and the duty of maintaining the authority of reason, the only umpire between just nations, impose on us the obligation of providing an effectual and determined opposition to a doctrine so injurious to the rights of peaceable nations. Indeed, the confidence we ought to have in the justice of others, still countenances the hope that a sounder view of those rights will of itself induce from every belligerent a more correct observance of them.

With Spain our negotiations for a settlement of differences have not had a satisfactory issue. Spoliations during the former war, for which she had formally acknowledged herself responsible, have been refused to be compensated, but on conditions affecting other claims in nowise connected with them. Yet the same practices are renewed in the present war, and are already of great amount. On the Mobile, our commerce passing through that river continues to be obstructed by arbitrary duties and vexatious searches. Propositions for adjusting amicably the boundaries of Louisiana have not been acceded to. While, however, the right is unsettled, we have avoided changing the state of things by taking new posts or strengthening ourselves in the disputed territories, in the hope that the other power would not, by contrary conduct, oblige us to meet their example, and endanger conflicts of authority the issue of which may not be easily controlled. But in this hope we have now reason to lessen our confidence. Inroads have been recently made into the territories of Orleans and the Mississippi, our citizens have been seized and their property plundered in the very parts of the former which had been actually delivered up by Spain, and this by the regular offi-

cers and soldiers of that government. I have therefore found it necessary at length to give orders to our troops on that frontier to be in readiness to protect our citizens, and to repel by arms any similar aggression in future. Other details, necessary for your full information of the state of things between this country and that shall be the subject of another communication.

In reviewing these injuries from some of the belligerent powers, the moderation, the firmness, and the wisdom of the legislature will be all called into action. We ought still to hope that time and a more correct estimate of interest, as well as of character, will produce the justice we are bound to expect. But should any nation deceive itself by false calculations, and disappoint that expectation, we must join in the unprofitable contest of trying which party can do the other the most harm. Some of these injuries may perhaps admit a peaceable remedy. Where that is competent it is always the most desirable. But some of them are of a nature to be met by force only, and all of them may lead to it. I cannot, therefore, but recommend such preparations as circumstances call for. The first object is to place our seaport towns out of the danger of insult. Measures have been already taken for furnishing them with heavy cannon for the service of such land batteries as may make a part of their defence against armed vessels approaching them. In aid of these it is desirable that we should have a competent number of gunboats; and the number, to be competent, must be considerable. If immediately begun, they may be in readiness for service at the opening of the next season. Whether it will be necessary to augment our land forces will be decided by occurrences probably in the course of your session. In the meantime, you will consider whether it would not be expedient, for a state of peace as well as of war, so to organize or class the militia as would enable us, on a sudden emergency, to call for the services of the younger portions, unencumbered with the old and those having families. Upward of three hundred thousand able-bodied men, between the ages of eighteen and twenty-six years, which the last census shows we may now count within our limits, will fur-

nish a competent number for offence or defence in any point where they may be wanted, and will give time for raising regular forces after the necessity of them shall become certain; and the reducing to the early period of life all its active service cannot but be desirable to our younger citizens, of the present as well as future times, inasmuch as it engages to them in more advanced age a quiet and undisturbed repose in the bosom of their families. I cannot, then, but earnestly recommend to your early consideration the expediency of so modifying our militia system as, by a separation of the more active part from that which is less so, we may draw from it, when necessary, an efficient corps fit for real and active service, and to be called to it in regular rotation.

Considerable provision has been made, under former authorities from Congress, of materials for the construction of ships of war of seventy-four guns. These materials are on hand, subject to the further will of the legislature.

An immediate prohibition of the exportation of arms and ammunition is also submitted to your determination.

Turning from these unpleasant views of violence and wrong, I congratulate you on the liberation of our fellow citizens who were stranded on the coast of Tripoli and made prisoners of war In a government bottomed on the will of all, the life and liberty of every individual citizen become interesting to all. In the treaty, therefore, which has concluded our warfare with that State, an article for the ransom of our citizens has been agreed to. An operation by land, by a small band of our countrymen, and others—engaged for the occasion, in conjunction with the troops of the ex-bashaw of that country, gallantly conducted by our late consul Eaton, and their successful enterprise on the city of Derne, contributed, doubtless, to the impression which produced peace; and the conclusion of this prevented opportunities of which the officers and men of our squadron destined for Tripoli would have availed themselves, to emulate the acts of valor exhibited by their brethren in the attack of the last year. Reflecting with high satisfaction on the distinguished bravery dis-

played whenever occasion permitted in the Mediterranean service, I think it would be a useful encouragement, as well as a just reward, to make an opening for some present promotion by enlarging our peace establishment of captains and lieutenants.

With Tunis some misunderstandings have arisen, not yet sufficiently explained, but friendly discussions with their ambassador recently arrived, and a mutual disposition to do whatever is just and reasonable, cannot fail of dissipating these; so that we may consider our peace on that coast, generally, to be on as sound a footing as it has been at any preceding time. Still it will not be expedient to withdraw, immediately, the whole of our force from that sea.

The law for providing a naval peace establishment fixes the number of frigates which shall be kept in constant service in time of peace, and prescribes that they shall not be manned by more than two-thirds of their complement of seamen and ordinary seamen. Whether a frigate may be trusted to two-thirds only of her proper complement of men must depend on the nature of the service on which she is ordered; that may sometimes, for her safety, as well as to insure her object, require her fullest complement. In adverting to this subject, Congress will perhaps consider whether the best limitation on the executive discretion in this case would not be by the number of seamen which may be employed in the whole service, rather than by the number of vessels. Occasions oftener arise for the employment of small than of large vessels, and it would lessen risk as well as expense to be authorized to employ them of preference. The limitation suggested by the number of seamen would admit a selection of vessels best adapted to the service.

Our Indian neighbors are advancing, many of them with spirit and others beginning to engage, in the pursuits of agriculture and household manufacture. They are becoming sensible that the earth yields subsistence with less labor and more certainty than the forest, and find it their interest, from time to time, to dispose of parts of their surplus and waste lands for the means of improving those they occupy, and of subsisting their families

while they are preparing their farms. Since your last session, the northern tribes have sold to us the lands between the Connecticut reserve and the former Indian boundary; and those on the Ohio, from the same boundary to the rapids, and for a considerable depth inland. The Chickasaws and Cherokees have sold us the country between and adjacent to the two districts of Tennessee, and the Creeks, the residue of their lands in the fork of Ocmulgee, up to the Ulcofauhatche. The three former purchases are important, inasmuch as they consolidate disjointed parts of our settled country, and render their intercourse secure; and the second particularly so, as with the small point on the river which we expect is by this time ceded by the Piankeshaws, it completes our possession of the whole of both banks of the Ohio, from its source to near its mouth, and the navigation of that river is thereby rendered forever safe to our citizens settled and settling on its extensive waters. The purchase from the Creeks too has been for some time particularly interesting to the State of Georgia.

The several treaties which have been mentioned will be submitted to both houses of Congress for the exercise of their respective functions.

Deputations now on their way to the seat of government, from various nations of Indians inhabiting the Missouri and other parts beyond the Mississippi, come charged with the assurances of their satisfaction with the new relations in which they are placed with us, of their disposition to cultivate our peace and friendship, and their desire to enter into commercial intercourse with us. A statement of our progress in exploring the principal rivers of that country, and of the information respecting them hitherto obtained, will be communicated so soon as we shall receive some further relations which we have reason shortly to expect.

The receipts at the treasury during the year ending the 30th day of September last, have exceeded the sum of thirteen millions of dollars, which, with not quite five millions in the treasury at the beginning of the year, have enabled us,

after meeting other demands, to pay nearly two millions of the debt contracted under the British treaty and convention, upward of four millions of principal of the public debt, and four millions of interest. These payments, with those which had been made in three years and a half preceding, have extinguished of the funded debt nearly eighteen millions of principal. Congress, by their act of November 10th, 1803, authorized us to borrow one million seven hundred and fifty thousand dollars, toward meeting the claims of our citizens assumed by the convention with France. We have not, however, made use of this authority, because the sum of four millions and and a half, which remained in the treasury on the same 30th day of September last, with the receipts which we may calculate on for the ensuing year, besides paying the annual sum of eight millions of dollars appropriated to the funded debts, and meeting all the current demands which may be expected, will enable us to pay the whole sum of three millions seven hundred and fifty thousand dollars assumed by the French convention, and still leaves a surplus of nearly a million of dollars at our free disposal. Should you concur in the provisions of arms and armed vessels recommended by the circumstances of the times, this surplus will furnish the means of doing so.

On this first occasion of addressing Congress, since, by the choice of my constituents, I have entered on a second term of administration, I embrace the opportunity to give this public assurance, that I will exert my best endeavors to administer faithfully the executive department, and will zealously co-operate with you in every measure which may tend to secure the liberty, property, and personal safety of our fellow citizens, and to consolidate the republican forms and principles of our government.

In the course of your session you shall receive all the aid which I can give for the despatch of the public business, and all the information necessary for your deliberations, of which the interests of our own country and the confidence reposed in us by others will admit a communication.

SPECIAL MESSAGE.—JANUARY 13, 1806.

To the Senate and House of Representatives of the United States :—

I lay before Congress the application of Hamet Caramalli, elder brother of the reigning bashaw of Tripoli, soliciting from the United States attention to his services and sufferings in the late war against that State. And in order to possess them of the ground on which that application stands, the facts shall be stated according to the views and information of the executive.

During the war with Tripoli, it was suggested that Hamet Caramalli, elder brother of the reigning bashaw, and driven by him from his throne, meditated the recovery of his inheritance, and that a concert in action with us was desirable to him. We considered that concerted operations by those who have a common enemy were entirely justifiable, and might produce effects favorable to both, without binding either to guaranty the objects of the other. But the distance of the scene, the difficulties of communication, and the uncertainty of our information, inducing the less confidence in the measures, it was committed to our agents as one which might be resorted to if it promised to promote our success.

Mr. Eaton, however (our late consul,) on his return from the Mediterranean, possessing a personal knowledge of the scene, and having confidence in the effect of a joint operation, we authorized Commodore Barron, then proceeding with his squadron, to enter into an understanding with Hamet if he should deem it useful; and as it was represented that he would need some aids of arms, and ammunition, and even of money, he was authorized to furnish them to a moderate extent, according to the prospect of utility to be expected from it. In order to avail him of the advantages of Mr. Eaton's knowledge of circumstances, an occasional employment was provided for the latter as an agent for the navy in that sea. Our expectation was, that an intercourse should be kept up between the ex-bashaw and the commodore, that while the former moved on by land,

our squadron should proceed with equal pace so as to arrive at their destination together, and to attack the common enemy by land and sea at the same time. The instructions of June 6th, to Commodore Barron, show that a co-operation only was intended, and by no means a union of our object with the fortune of the ex-bashaw, and the commodore's letters of March 22d and May 19th proved that he had the most correct idea of our intentions. His verbal instructions indeed to Mr. Eaton and Captain Hull, if the expressions are accurately committed to writing by those gentlemen, do not limit the extent of his co-operation as rigorously as he probably intended; but it is certain, from the ex-bashaw's letter of January 3d, written when he was proceeding to join Mr. Eaton, and in which he says, "Your operations should be carried on by sea, mine by land," that he left the position in which he was with a proper idea of the nature of the co-operation. If Mr. Eaton's subsequent convention should appear to bring forward other objects, his letter of April 29th and May 1st views this convention but as provisional, the second article, as he expressly states, guarding it against any ill effect; and his letter of June 30th confirms this construction.

In the event it was found that after placing the ex-bashaw in possession of Derne, one of the most important cities and provinces of the country, where he had resided himself as governor, he was totally unable to command any resources, or to bear any part in the co-operation with us. This hope was then at an end, and we certainly had never contemplated, nor were we prepared to land an army of our own, or to raise, pay, or subsist, an army of Arabs, to march from Derne to Tripoli and to carry on a land war at such a distance from our resources. Our means and our authority was merely naval, and that such were the expectations of Hamet, his letter of June 29th is an unexpected acknowledgment. While, therefore, an impression from the capture of Derne might still operate at Tripoli, and an attack on that place from our squadron was daily expected, Colonel Lear thought it the best moment to listen to overtures of peace then made by the bashaw. He did so, and while urging provisions for the

United States, he paid attention also to the interests of Hamet; but was able to effect nothing more than to engage the restitution of his family, and even the persevering in this demand suspended for some time the conclusion of the treaty.

In operations at such a distance, it becomes necessary to leave much to the discretion of the agents employed, but events may still turn up beyond the limits of that discretion. Unable in such case to consult his government, a zealous citizen will act as he believes that would direct him were it apprized of the circumstances, and will take on himself the responsibility. In all these cases the purity and patriotism of the motives should shield the agent from blame, and even secure the sanction where the error is not too injurious. Should it be thought by any that the verbal instructions said to have beeu given by Commodore Barron to Mr. Eaton amount to a stipulation that the United States should place Hamet Caramalli on the throne of Tripoli, a stipulation so entirely unauthorized, so far beyond our views, and so onerous, could not be sanctioned by our government; or should Hamet Camaralli, contrary to the evidence of his letters of January 3d and June 29th, be thought to have left the position which he now seems to regret, under a mistaken expectation that we were at all events to place him on his throne, on an appeal to the liberality of the nation something equivalent to the replacing him in his former situation, might be worthy its consideration.

A nation, by establishing a character of liberality and magnanimity, gains in the friendship and respect of others more than the worth of mere money. This appeal is now made by Hamet Caramalli to the United States. The ground he has taken being different not only from our views but from those expressed by himself on former occasions, Mr. Eaton was desired to state whether any verbal communications passed from him to Hamet, which had varied what we saw in writing. His answer of December 5th is herewith transmitted, and has rendered it still more necessary, that in presenting to the legislature the application of Hamet, I should present them at the same time an exact statement of the views and proceedings of the executive through this

whole business, that they may clearly understand the ground on which we are placed. It is accompanied by all the papers which bear any relation to the principles of the co-operation, and which can inform their judgment in deciding on the application of Hamet Caramalli.

SPECIAL MESSAGE—JANUARY 17, 1806.

To the Senate and House of Representatives of the United States :—

In my message to both houses of Congress at the opening of their present session, I submitted to their attention, among other subjects, the oppression of our commerce and navigation by the irregular practices of armed vessels, public and private, and by the introduction of new principles, derogatory of the rights of neutrals, and unacknowledged by the usage of nations.

The memorials of several bodies of merchants of the United States are now communicated, and will develop these principles and practices which are producing the most ruinous effects on our lawful commerce and navigation.

The rights of a neutral to carry on a commercial intercourse with every part of the dominions of a belligerent, permitted by the laws of the country (with the exception of blockaded ports and contraband of war), was believed to have been decided between Great Britain and the United States by the sentence of the commissioners mutually appointed to decide on that and other questions of difference between the two nations, and by the actual payment of damages awarded by them against Great Britain for the infractions of that right. When, therefore, it was perceived that the same principle was revived with others more novel, and extending the injury, instructions were given to the minister plenipotentiary of the United States at the court of London, and remonstrances duly made by him on this subject, as will appear by documents transmitted herewith. These were

followed by a partial and temporary suspension only, without any disavowal of the principle. He has therefore been instructed to urge this subject anew, to bring it more fully to the bar of reason, and to insist on the rights too evident and too important to be surrendered. In the meantime, the evil is proceeding under adjudications founded on the principle which is denied. Under these circumstances the subject presents itself for the consideration of Congress.

On the impressment of our seamen our remonstrances have never been intermitted. A hope existed at one moment of an arrangement which might have been submitted to, but it soon passed away, and the practice, though relaxed at times in the distant seas, has been constantly pursued in those in our neighborhood. The grounds on which the reclamations on this subject have been urged, will appear in an extract from instructions to our minister at London now communicated.

SPECIAL MESSAGE.—February 3, 1806.

To the Senate and House of Representatives of the United States :—

A letter has been received from the Governor of South Carolina, covering an act of the legislature of that state, ceding to the United States various forts and fortifications, and sites for the erection of forts in that state, on the conditions therein expressed. This letter and the act it covered are now communicated to Congress.

I am not informed whether the positions ceded are the best which can be taken for securing their respective objects. No doubt is entertained that the legislature deemed them such. The river of Beaufort particularly, said to be accessible to ships of very large size, and capable of yielding them a protection which they cannot find elsewhere, but very far to the north, is, from these circumstances, so interesting to the Union in general, as to merit particular attention and inquiry, as to the positions on it best calculated for health as well as safety.

SPECIAL MESSAGE.—February 19, 1806.

To the Senate and House of Representatives of the United States:—

In pursuance of a measure submitted to Congress by a message of January 18th, 1803, and sanctioned by their appropriation for carrying it into execution, Captain Meriwether Lewis, of the first regiment of infantry, was appointed, with a party of men, to explore the river Missouri from its mouth to its source; and, crossing the highlands by the shortest portage, to seek the best water communication thence to the Pacific ocean; and Lieutenant Clarke was appointed second in command. They were to enter into conference with the Indian nation on their route, with a view to the establishment of commerce with them. They entered the Missouri, May 14th, 1804, and on the 1st of November, took up their winter quarters near the Maudan towns, 1609 miles above the mouth of the river, in latitude 47° 21′ 47″ north, and longitude 99° 24′ 45″ west, from Greenwich. On the 8th of April, 1805, they proceeded up the river in pursuance of the objects prescribed to them. A letter of the preceding day, April the 7th, from Captain Lewis, is herewith communicated. During his stay among the Maudans', he had been able to lay down the Missouri according to courses and distances taken under his passage up it, corrected by frequent observations of longitude and latitude, and to add to the actual survey of this portion of the river, a general map of the country between the Mississippi and Pacific, from the thirty-fourth to the fifty-fourth degrees of latitude. These additions are from information collected from Indians with whom he had opportunity of communicating during his journey and residence among them. Copies of this map are now presented to both houses of Congress. With these I communicate, also, a statistical view, procured and forwarded by him, of the Indian nations inhabiting the territory of Louisiana, and the countries adjacent to its northern and western borders; of their commerce, and of other interesting circumstances respecting them.

In order to render the statement as complete as may be, of the Indians inhabiting the country west of the Mississippi, I add Dr. Sibley's account of those residing in and adjacent to the territory of Orleans.

I communicate also, from the same person, an account of the Red river, according to the best information he had been able to collect.

Having been disappointed, after considerable preparation, in the purpose of sending an exploring expedition up that river in the summer of 1804, it was thought best to employ the autumn in that year in procuring a knowledge on an interesting branch of the river called Washita. This was undertaken under the direction of Mr. Dunbar, of Natchez, a citizen of distinguished science, who had aided, and continues to aid us with his disinterested valuable services in the prosecution of these enterprises. He ascended the river to the remarkable hot springs near it, in latitude 34° 31′ 4″ .16, longitude, 92° 50′ 45″ west, from Greenwich, taking its courses and distances, and correcting them by frequent celestial observations. Extracts from his observations, and copies of his map of the river, from its mouth to the hot springs, make part of the present communications. The examination of the Red river itself is but now commencing.

SPECIAL MESSAGE.—March 20, 1806.

To the Senate and House of Representatives of the United States :—

It was reasonably expected, that while the limits between the territories of the United States and of Spain were unsettled, neither party would have innovated on the existing state of their respective positions. Some time since, however, we learned that the Spanish authorities were advancing into the disputed country to occupy new posts and make new settlements. Unwilling to take any measures which might preclude a peaceable accom-

modation of differences, the officers of the United States were ordered to confine themselves within the country on this side of the Sabine river; which, by the delivery of its principal post (Natchitoches), was understood to have been itself delivered up by Spain; and at the same time to permit no adverse post to be taken, nor armed men to remain within it. In consequence of these orders, the commanding officer of Natchitoches, learning that a party of Spanish troops had crossed the Sabine river and were posting themselves on this side the Adais, sent a detachment of his force to require them to withdraw to the other side of the Sabine, which they accordingly did.

I have thought it proper to communicate to Congress the letters detailing this incident, that they may fully understand the state of things in that quarter, and be enabled to make such provision for its security as in their wisdom they shall deem sufficient.

SPECIAL MESSAGE.—April 14, 1806.

To the Senate and House of Representatives of the United States :—

During the blockade of Tripoli by the squadron of the United States, a small cruiser, under the flag of Tunis, with two prizes (all of trifling value,) attempted to enter Tripoli, was turned back, warned, and attempting again to enter, was taken and detained as a prize by the squadron. Her restitution was claimed by the bey of Tunis, with a threat of war so serious, that, on withdrawing from the blockade of Tripoli, the commanding officer of the squadron thought it is duty to repair to Tunis with his squadron, and to require a categorical declaration whether peace or war was intended. The bey preferred explaining himself by an ambassador to the United States, who, on his arrival, renewed the request that the vessel and her prizes should be restored. It was deemed proper to give this proof of friendship to the bey, and the ambassador was informed the vessels would

be restored. Afterward he made a requisition of naval stores to be sent to the bey, in order to secure peace for the term of three years, with a threat of war if refused. It has been refused, and the ambassador is about to depart without receding from his threat or demand.

Under these circumstances, and considering that the several provisions of the act, March 25th, 1804, will cease in consequence of the ratification of the treaty of peace with Tripoli, now advised to and consented to by the Senate, I have thought it my duty to communicate these facts, in order that Congress may consider the expediency of continuing the same provisions for a limited time or making others equivalent.

SIXTH ANNUAL MESSAGE.—DECEMBER 2, 1806.

To the Senate and House of Representatives of the United States in Congress assembled :—

It would have given me, fellow citizens, great satisfaction to announce in the moment of your meeting that the difficulties in our foreign relations, existing at the time of your last separation, had been amicably and justly terminated. I lost no time in taking those measures which were most likely to bring them to such a termination, by special missions charged with such powers and instructions as in the event of failure could leave no imputation on either our moderation or forbearance. The delays which have since taken place in our negotiations with the British government appears to have proceeded from causes which do not forbid the expectation that during the course of the session I may be enabled to lay before you their final issue. What will be that of the negotiations for settling our differences with Spain, nothing which had taken place at the date of the last despatches enables us to pronounce. On the western side of the Mississippi she advanced in considerable force, and took post at the settlement of Bayou Pierre, on the Red river. This village was

originally settled by France, was held by her as long as she held Louisiana, and was delivered to Spain only as a part of Louisiana. Being small, insulated, and distant, it was not observed, at the moment of redelivery to France and the United States, that she continued a guard of half a dozen men which had been stationed there. A proposition, however, having been lately made by our commander-in-chief, to assume the Sabine river as a temporary line of separation between the troops of the two nations until the issue of our negotiation shall be known; this has been referred by the Spanish commandant to his superior, and in the in the meantime, he has withdrawn his force to the western side of the Sabine river. The correspondence on this subject, now communicated, will exhibit more particularly the present state of things in that quarter.

The nature of that country requires indispensably that an unusual proportion of the force employed there should be cavalry or mounted infantry. In order, therefore, that the commanding officer might be enabled to act with effect, I had authorized him to call on the governors of Orleans and Mississippi for a corps of five hundred volunteer cavalry. The temporary arrangement he has proposed may perhaps render this unnecessary. But I inform you with great pleasure of the promptitude with which the inhabitants of those territories have tendered their services in defence of their country. It has done honor to themselves, entitled them to the confidence of their fellow-citizens in every part of the Union, and must strengthen the general determination to protect them efficaciously under all circumstances which may occur.

Having received information that in another part of the United States a great number of private individuals were combining together, arming and organizing themselves contrary to law, to carry on military expeditions against the territories of Spain, I thought it necessary, by proclamations as well as by special orders, to take measures for preventing and suppressing this enterprise, for seizing the vessels, arms, and other means provided for it, and for arresting and bringing to justice its authors and

abettors. It was due to that good faith which ought ever to be the rule of action in public as well as in private transactions; it was due to good order and regular government, that while the public force was acting strictly on the defensive and merely to protect our citizens from aggression, the criminal attempts of private individuals to decide for their country the question of peace or war, by commencing active and unauthorized hostilities, should be promplty and efficaciously suppressed.

Whether it will be necessary to enlarge our regular force will depend on the result of our negotiation with Spain; but as it is uncertain when that result will be known, the provisional measures requisite for that, and to meet any pressure intervening in that quarter, will be a subject for your early consideration.

The possession of both banks of the Mississippi reducing to a single point the defence of that river, its waters, and the country adjacent, it becomes highly necessary to provide for that point a more adequate security. Some position above its mouth, commanding the passage of the river, should be rendered sufficiently strong to cover the armed vessels which may be stationed there for defence, and in conjunction with them to present an insuperable obstacle to any force attempting to pass. The approaches to the city of New Orleans, from the eastern quarter also, will require to be examined, and more effectually guarded. For the internal support of the country, the encouragement of a strong settlement on the western side of the Mississippi, within reach of New Orleans, will be worthy the consideration of the legislature.

The gun-boats authorized by an act of the last session are so advanced that they will be ready for service in the ensuing spring. Circumstances permitted us to allow the time necessary for their more solid construction. As a much larger number will still be wanting to place our seaport towns and waters in that state of defence to which we are competent and they entitled, a similar appropriation for a further provision for them is recommended for the ensuing year.

A further appropriation will also be necessary for repairing for-

tifications already established, and the erection of such works as may have real effect in obstructing the approach of an enemy to our seaport towns, or their remaining before them.

In a country whose constitution is derived from the will of the people, directly expressed by their free suffrages; where the principal executive functionaries, and those of the legislature, are renewed by them at short periods; where under the characters of jurors, they exercise in person the greatest portion of the judiciary powers; where the laws are consequently so formed and administered as to bear with equal weight and favor on all, restraining no man in the pursuits of honest industry, and securing to every one the property which that acquires, it would not be supposed that any safeguards could be needed against insurrection or enterprise on the public peace or authority. The laws, however, aware that these should not be trusted to moral restraints only, have wisely provided punishments for these crimes when committed. But would it not be salutary to give also the means of preventing their commission? Where an enterprise is meditated by private individuals against a foreign nation in amity with the United States, powers of prevention to a certain extent are given by the laws; would they not be as reasonable and useful were the enterprise preparing against the United States? While adverting to this branch of the law, it is proper to observe, that in enterprises meditated against foreign nations, the ordinary process of binding to the observance of the peace and good behavior, could it be extended to acts to be done out of the jurisdiction of the United States, would be effectual in some cases where the offender is able to keep out of sight every indication of his purpose which could draw on him the exercise of the powers now given by law.

The states on the coast of Barbary seem generally disposed at present to respect our peace and friendship; with Tunis alone some uncertainty remains. Persuaded that it is our interest to maintain our peace with them on equal terms, or not at all, I propose to send in due time a reinforcement into the Mediterranean, unless previous information shall show it to be unnecessary.

We continue to receive proofs of the growing attachment of our Indian neighbors, and of their disposition to place all their interests under the patronage of the United States. These dispositions are inspired by their confidence in our justice, and in the sincere concern we feel for their welfare; and as long as we discharge these high and honorable functions with the integrity and good faith which alone can entitle us to their continuance, we may expect to reap the just reward in their peace and friendship.

The expedition of Messrs. Lewis and Clarke, for exploring the river Missouri, and the best communication from that to the Pacific ocean, has had all the success which could have been expected. They have traced the Missouri nearly to its source, descended the Columbia to the Pacific ocean, ascertained with accuracy the geography of that interesting communication across our continent, learned the character of the country, of its commerce, and inhabitants; and it is but justice to say that Messrs. Lewis and Clarke, and their brave companions, have by this arduous service deserved well of their country.

The attempt to explore the Red river, under the direction of Mr. Freeman, though conducted with a zeal and prudence meriting entire approbation, has not been equally successful. After proceeding up it about six hundred miles, nearly as far as the French settlements had extended while the country was in their possession, our geographers were obliged to return without completing their work.

Very useful additions have also been made to our knowledge of the Mississippi by Lieutenant Pike, who has ascended to its source, and whose journal and map, giving the details of the journey, will shortly be ready for communication to both houses of Congress. Those of Messrs. Lewis and Clarke, and Freeman, will require further time to be digested and prepared. These important surveys, in addition to those before possessed, furnish materials for commencing an accurate map of the Mississippi, and its western waters. Some principal rivers, however, remain still to be explored, toward which the authorization of Congress, by moderate appropriations, will be requisite.

I congratulate you, fellow citizens, on the approach of the period at which you may interpose your authority constitutionally, to withdraw the citizens of the United States from all further participation in those violations of human rights which have been so long continued on the unoffending inhabitants of Africa, and which the morality, the reputation, and the best interests of our country, have long been eager to proscribe. Although no law you may pass can take prohibitory effect till the first day of the year one thousand eight hundred and eight, yet the intervening period is not too long to prevent, by timely notice, expeditions which cannot be completed before that day.

The receipts at the treasury during the year ending on the 30th of September last, have amounted to near fifteen millions of dollars, which have enabled us, after meeting the current demands, to pay two millions seven hundred thousand dollars of the American claims, in parts of the price of Louisiana; to pay of the funded debt upward of three millions of principal, and nearly four of interest; and in addition, to reimburse, in the course of the present month, near two millions of five and a half per cent. stock. These payments and reimbursements of the funded debt, with those which have been made in four years and a half preceding, will, at the close of the present year, have extinguished upward of twenty-three millions of principal.

The duties composing the Mediterranean fund will cease by law at the end of the present season. Considering, however, that they are levied chiefly on luxuries, and that we have an impost on salt, a necessary of life, the free use of which otherwise is so important, I recommend to your consideration the suppression of the duties on salt, and the continuation of the Mediterranean fund, instead thereof, for a short time, after which that also will become unnecessary for any purpose now within contemplation.

When both of these branches of revenue shall in this way be relinquished, there will still ere long be an accumulation of moneys in the treasury beyond the instalments of public debt which we are permitted by contract to pay. They cannot, then,

without a modification assented to by the public creditors, be applied to the extinguishment of this debt, and the complete liberation of our revenues—the most desirable of all objects; nor, if our peace continues, will they be wanting for any other existing purpose. The question, therefore, now comes forward,—to what other objects shall these surpluses be appropriated, and the whole surplus of impost, after the entire discharge of the public debt, and during those intervals when the purposes of war shall not call for them? Shall we suppress the impost and give that advantage to foreign over domestic manufactures? On a few articles of more general and necessary use, the suppression in due season will doubtless be right, but the great mass of the articles on which impost is paid is foreign luxuries, purchased by those only who are rich enough to afford themselves the use of them. Their patriotism would certainly prefer its continuance and application to the great purposes of the public education, roads, rivers, canals, and such other objects of public improvement as it may be thought proper to add to the constitutional enumeration of federal powers. By these operations new channels of communication will be opened between the States; the lines of separation will disappear, their interests will be identified, and their union cemented by new and indissoluble ties. Education is here placed among the articles of public care, not that it would be proposed to take its ordinary branches out of the hands of private enterprise, which manages so much better all the concerns to which it is equal; but a public institution can alone supply those sciences which, though rarely called for, are yet necessary to complete the circle, all the parts of which contribute to the improvement of the country, and some of them to its preservation. The subject is now proposed for the consideration of Congress, because, if approved by the time the State legislatures shall have deliberated on this extension of the federal trusts, and the laws shall be passed, and other arrangements made for their execution, the necessary funds will be on hand and without employment. I suppose an amendment to the constitution, by consent of the States, necessary, because the objects

now recommended are not among those enumerated in the constitution, and to which it permits the public moneys to be applied.

The present consideration of a national establishment for education, particularly, is rendered proper by this circumstance also, that if Congress, approving the proposition, shall yet think it more eligible to found it on a donation of lands, they have it now in their power to endow it with those which will be among the earliest to produce the necessary income. This foundation would have the advantage of being independent on war, which may suspend other improvements by requiring for its own purposes the resources destined for them.

This, fellow citizens, is the state of the public interest at the present moment, and according to the information now possessed. But such is the situation of the nations of Europe, and such too the predicament in which we stand with some of them, that we cannot rely with certainty on the present aspect of our affairs that may change from moment to moment, during the course of your session or after you shall have separated. Our duty is, therefore, to act upon things as they are, and to make a reasonable provision for whatever they may be. Were armies to be raised whenever a speck of war is visible in our horizon, we never should have been without them. Our resources would have been exhausted on dangers which have never happened, instead of being reserved for what is really to take place. A steady, perhaps a quickened pace in preparations for the defence of our seaport towns and waters; an early settlement of the most exposed and vulnerable parts of our country; a militia so organized that its effective portions can be called to any point in the Union, or volunteers instead of them to serve a sufficient time, are means which may always be ready yet never preying on our resources until actually called into use. They will maintain the public interests while a more permanent force shall be in course of preparation. But much will depend on the promptitude with which these means can be brought into activity. If war be forced upon us in spite of our long and vain appeals to the jus-

tice of nations, rapid and vigorous movements in its outset will go far toward securing us in its course and issue, and toward throwing its burdens on those who render necessary the resort from reason to force.

The result of our negotiations, or such incidents in their course as may enable us to infer their probable issue; such further movements also on our western frontiers as may show whether war is to be pressed there while negotiation is protracted elsewhere, shall be communicated to you from time to time as they become known to me, with whatever other information I possess or may receive, which may aid your deliberations on the great national interests committed to your charge.

SPECIAL MESSAGE—DECEMBER 3, 1806.

To the Senate and House of Representatives of the United States:—

I have the satisfaction to inform you that the negotiation depending between the United States and the government of Great Britain is proceeding in a spirit of friendship and accommodation which promises a result of mutual advantage. Delays indeed have taken place, occasioned by the long illness and subsequent death of the British minister charged with that duty. But the commissioners appointed by that government to resume the negotiation have shown every disposition to hasten its progress. It is, however, a work of time, as many arrangements are necessary to place our future harmony on stable grounds. In the meantime, we find by the communications of our plenipotentiaries, that a temporary suspension of the act of the last session prohibiting certain importations, would, as a mark of candid disposition on our part, and of confidence in the temper and views with which they have been met, have a happy effect on its course. A step so friendly will afford further evidence that all our proceedings have flowed from views of justice and concilia-

tion, and that we give them willingly that form which may best meet corresponding dispositions.

Add to this, that the same motives which produced the postponement of the act till the fifteenth of November last, are in favor of its further suspension; and as we have reason to hope that it may soon yield to arrangements of mutual consent and convenience, justice seems to require that the same measure may be dealt out to the few cases which may fall within its short course, as to all others preceding and following it. I cannot, therefore, but recommend the suspension of this act for a reasonable time, on considerations of justice, amity, and the public interests.

SPECIAL MESSAGE.—JANUARY 22, 1807.

To the Senate and House of Representatives of the United States :—

Agreeably to the request of the House of Representatives, communicated in their resolution of the sixteenth instant, I proceed to state under the reserve therein expressed, information received touching an illegal combination of private individuals against the peace and safety of the Union, and a military expedition planned by them against the territories of a power in amity with the United States, with the measures I have pursued for suppressing the same.

I had for some time been in the constant expectation of receiving such further information as would have enabled me to lay before the legislature the termination as well as the beginning and progress of this scene of depravity, so far as it has been acted on the Ohio and its waters. From this the state and safety of the lower country might have been estimated on probable grounds, and the delay was indulged the rather, because no circumstance had yet made it necessary to call in the aid of the legislative functions. Information now recently communicated has brought us nearly to the period contemplated. The mass of

what I have received, in the course of these transactions, is voluminous, but little has been given under the sanction of an oath, so as to constitute formal and legal evidence. It is chiefly in the form of letters, often containing such a mixture of rumors, conjectures, and suspicions, as render it difficult to sift out the real facts, and unadvisable to hazard more than general outlines, strengthened by concurrent information, or the particular credibility of the relater. In this state of the evidence, delivered sometimes too under the restriction of private confidence, neither safety nor justice will permit the exposing names, except that of the principal actor, whose guilt is placed beyond question.

Some time in the latter part of September, I received intimations that designs were in agitation in the western country, unlawful and unfriendly to the peace of the Union; and that the prime mover in these was Aaron Burr, heretofore distinguished by the favor of his country. The grounds of these intimations being inconclusive, the objects uncertain, and the fidelity of that country known to be firm, the only measure taken was to urge the informants to use their best endeavors to get further insight into the designs and proceedings of the suspected persons, and to communicate them to me.

It was not until the latter part of October, that the objects of the conspiracy began to be perceived, but still so blended and involved in mystery that nothing distinct could be singled out for pursuit. In this state of uncertainty as to the crime contemplated, the acts done, and the legal course to be pursued, I thought it best to send to the scene where these things were principally in transaction, a person, in whose integrity, understanding, and discretion, entire confidence could be reposed, with instructions to investigate the plots going on, to enter into conference (for which he had sufficient credentials) with the governors and all other officers, civil and military, and with their aid to do on the spot whatever should be necessary to discover the designs of the conspirators, arrest their means, bring their persons to punishment, and to call out the force of the country to suppress any unlawful enterprise in which it should be found they were en-

gaged. By this time it was known that many boats were under preparation, stores of provisions collecting, and an unusual number of suspicious characters in motion on the Ohio and its waters. Besides despatching the confidential agent to that quarter, orders were at the same time sent to the governors of the Orleans and Mississippi territories, and to the commanders of the land and naval forces there, to be on their guard against surprise, and in constant readiness to resist any enterprise which might be attempted on the vessels, posts, or other objects under their care; and on the 8th of November, instructions were forwarded to General Wilkinson to hasten an accommodation with the Spanish commander on the Sabine, and as soon as that was effected, to fall back with his principal force to the hither bank of the Mississippi, for the defence of the intersecting points on that river. By a letter received from that officer on the 25th of November, but dated October 21st, we learn that a confidential agent of Aaron Burr had been deputed to him, with communications partly written in cipher and partly oral, explaining his designs, exaggerating his resources, and making such offers of emolument and command, to engage him and the army in his unlawful enterprise, as he had flattered himself would be successful. The general, with the honor of a soldier and fidelity of a good citizen, immediately despatched a trusty officer to me with information of what had passed, proceeding to establish such an understanding with the Spanish commandant on the Sabine as permitted him to withdraw his force across the Mississippi, and to enter on measures for opposing the projected enterprise.

The general's letter, which came to hand on the 25th of November, as has been mentioned, and some other information received a few days earlier, when brought together, developed Burr's general designs, different parts of which only had been revealed to different informants. It appeared that he contemplated two distinct objects, which might be carried on either jointly or separately, and either the one or the other first, as circumstances should direct. One of these was the severance of

the Union of these States by the Alleghany mountains; the other, an attack on Mexico. A third object was provided, merely ostensible, to wit: the settlement of a pretended purchase of a tract of country on the Washita, claimed by a Baron Bastrop. This was to serve as the pretext for all his preparations, an allurement for such followers as really wished to acquire settlements in that country, and a cover under which to retreat in the event of final discomfiture of both branches of his real design.

He found at once that the attachment of the western country to the present Union was not to be shaken; that its dissolution could not be effected with the consent of its inhabitants, and that his resources were inadequate, as yet, to effect it by force. He took his course then at once, determined to seize on New Orleans, plunder the bank there, possess himself of the military and naval stores, and proceed on his expedition to Mexico; and to this object all his means and preparations were now directed. He collected from all the quarters where himself or his agents possessed influence, all the ardent, restless, desperate, and disaffected persons who were ready for any enterprise analogous to their characters. He seduced good and well-meaning citizens, some by assurances that he possessed the confidence of the government and was acting under its secret patronage, a pretence which obtained some credit from the state of our differences with Spain; and others by offers of land in Bastrop's claim on the Washita.

This was the state of my information of his proceedings about the last of November, at which time, therefore, it was first possible to take specific measures to meet them. The proclamation of November 27th, two days after the receipt of General Wilkinson's information, was now issued. Orders were despatched to every intersecting point on the Ohio and Mississippi, from Pittsburg to New Orleans, for the employment of such force either of the regulars or of the militia, and of such proceedings also of the civil authorities, as might enable them to seize on all the boats and stores provided for the enterprise, to arrest the persons concerned, and to suppress effectually the further pro-

gress of the enterprise. A little before the receipt of these orders in the State of Ohio, our confidential agent, who had been diligently employed in investigating the conspiracy, had acquired sufficient information to open himself to the governor of that State, and apply for the immediate exertion of the authority and power of the State to crush the combination. Governor Tiffin and the legislature, with a promptitude, an energy, and patriotic zeal, which entitle them to a distinguished place in the affection of their sister States, effected the seizure of all the boats, provisions, and other preparations within their reach, and thus gave a first blow, materially disabling the enterprise in its outset.

In Kentucky, a premature attempt to bring Burr to justice, without sufficient evidence for his conviction, had produced a popular impression in his favor, and a general disbelief of his guilt. This gave him an unfortunate opportunity of hastening his equipments. The arrival of the proclamation and orders, and the application and information of our confidential agent, at length awakened the authorities of that State to the truth, and then produced the same promptitude and energy of which the neighboring State had set the example. Under an act of their legislature of December 23d, militia was instantly ordered to different important points, and measures taken for doing whatever could yet be done. Some boats (accounts vary from five to double or treble that number) and persons (differently estimated from one to three hundred) had in the meantime passed the falls of the Ohio, to rendezvous at the mouth of the Cumberland, with others expected down that river.

Not apprized, till very late, that any boats were building on Cumberland, the effect of the proclamation had been trusted to for some time in the State of Tennessee; but on the 19th of December, similar communications and instructions with those of the neighboring States were despatched by express to the governor, and a general officer of the western division of the State, and on the 23d of December our confidential agent left Frankfort for Nashville, to put into activity the means of that

State also. But by information received yesterday, I learn that on the 22d of December, Mr. Burr descended the Cumberland with two boats merely of accommodation, carrying with him from that State no quota toward his unlawful enterprise. Whether after the arrival of the proclamation, of the orders, or of our agent, any exertion which could be made by that State, or the orders of the governor of Kentucky for calling out the militia at the mouth of Cumberland, would be in time to arrest these boats, and those from the falls of the Ohio, is still doubtful.

On the whole, the fugitives from Ohio, with their associates from Cumberland, or any other place in that quarter, cannot threaten serious danger to the city of New Orleans.

By the same express of December nineteenth, orders were sent to the governors of New Orleans and Mississippi, supplementary to those which had been given on the twenty-fifth of November, to hold the militia of their territories in readiness to co-operate for their defence, with the regular troops and armed vessels then under command of General Wilkinson. Great alarm, indeed, was excited at New Orleans by the exaggerated accounts of Mr. Burr, disseminated through his emissaries, of the armies and navies he was to assemble there. General Wilkinson had arrived there himself on the 24th of November, and had immediately put into activity the resources of the place for the purpose of its defence; and on the tenth of December he was joined by his troops from the Sabine. Great zeal was shown by the inhabitants generally, the merchants of the place readily agreeing to the most laudable exertions and sacrifices for manning the armed vessels with their seamen, and the other citizens manifesting unequivocal fidelity to the Union, and a spirit of determined resistance to their expected assailants.

Surmises have been hazarded that this enterprise is to receive aid from certain foreign powers. But these surmises are without proof or probability. The wisdom of the measures sanctioned by Congress at its last session had placed us in the paths of peace and justice with the only powers with whom we had any differences, and nothing has happened since which makes it either

their interest or ours to pursue another course. No change of measures has taken place on our part; none ought to take place at this time. With the one, friendly arrangement was then proposed, and the law deemed necessary on the failure of that was suspended to give time for a fair trial of the issue. With the same power, negotiation is still preferred, and provisional measures only are necessary to meet the event of rupture. While, therefore, we do not deflect in the slightest degree from the course we then assumed, and are still pursuing, with mutual consent, to restore a good understanding, we are not to impute to them practices as irreconcilable to interest as to good faith, and changing necessarily the relations of peace and justice between us to those of war. These surmises are, therefore, to be imputed to the vauntings of the author of this enterprise, to multiply his partisans by magnifying the belief of his prospects and support.

By letters from General Wilkinson, of the 14th and 18th of September, which came to hand two days after date of the resolution of the House of Representatives, that is to say, on the morning of the 18th instant, I received the important affidavit, a copy of which I now communicate, with extracts of so much of the letters as come within the scope of the resolution. By these it will be seen that of three of the principal emissaries of Mr. Burr, whom the general had caused to be apprehended, one had been liberated by *habeas corpus*, and the two others, being those particularly employed in the endeavor to corrupt the general and army of the United States, have been embarked by him for our ports in the Atlantic States, probably on the consideration that an impartial trial could not be expected during the present agitations of New Orleans, and that that city was not as yet a safe place of confinement. As soon as these persons shall arrive, they will be delivered to the custody of the law, and left to such course of trial, both as to place and process, as its functionaries may direct. The presence of the highest judicial authorities, to be assembled at this place within a few days, the means of pursuing a sounder course of proceedings here than elsewhere,

and the aid of the executive means, should the judges have occasion to use them, render it equally desirable for the criminals as for the public, that being already removed from the place where they were first apprehended, the first regular arrest should take place here, and the course of proceedings receive here its proper direction.

SPECIAL MESSAGE.—JANUARY 28, 1807.

To the Senate and House of Representatives of the United States :—

By the letters of Captain Bissel, who commands at Fort Massac, and of Mr. Murrell, to General Jackson, of Tennessee, copies of which are now communicated to Congress, it will be seen that Aaron Burr passed Fort Massac on the 31st December, with about ten boats, navigated by about six hands each, without any military appearance, and that three boats with ammunition were said to have been arrested by the militia at Louisville.

As the guards of militia posted on various points on the Ohio will be able to prevent any further aids passing through that channel, should any be attempted, we may now estimate, with tolerable certainty, the means derived from the Ohio and its waters, toward the accomplishment of the purposes of Mr. Burr.

SPECIAL MESSAGE.—JANUARY 31, 1807.

To the Senate and House of Representatives of the United States :—

In execution of the act of the last session of Congress, entitled, "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," I appointed Thomas Moore, of Maryland, Joseph Kerr, of Ohio, and Eli Williams, of Maryland, commissioners to lay out the said

road, and to perform the other duties assigned to them by the act. The progress which they made in the execution of the work, during the last session, will appear in their report, now communicated to Congress. On the receipt of it, I took measures to obtain consent for making the road, of the States of Pennsylvania, Maryland, and Virginia, through which the commissioners proposed to lay it out. I have received acts of the legislatures of Maryland and Virginia, giving the consent desired; that of Pennsylvania has the subject still under consideration, as is supposed. Until I receive full consent to a free choice of route through the whole distance, I have thought it safest neither to accept, nor reject, finally, the partial report of the commissioners. Some matters suggested in the report belong exclusively to the legislature.

SPECIAL MESSAGE.—FEBRUARY 10, 1807.

To the Senate and House of Representatives of the United States :—

In compliance with the request of the House of Representatives, expressed in their resolution of the 5th instant, I proceed to give such information as is possessed, of the effect of gun-boats in the protection and defense of harbors, of the numbers thought neces sary, and of the proposed distribution of them among the ports and harbors of the United States.

Under the present circumstances, and governed by the intentions of the legislature, as manifested by their annual appropriations of money for the purposes of defence, it has been concluded to combine—1st, land batteries, furnished with heavy cannon and mortars, and established on all the points around the place favorable for preventing vessels from lying before it; 2d, movable artillery which may be carried, as an occasion may require, to points unprovided with fixed batteries; 3d, floating batteries; and 4th, gun-boats, which may oppose an enemy at its entrance and co-operate with the batteries for his expulsion.

On this subject professional men were consulted as far as we had opportunity. General Wilkinson, and the late General Gates, gave their opinions in writing, in favor of the system, as will be seen by their letters now communicated. The higher officers of the navy gave the same opinions in separate conferences, as their presence at the seat of government offered occasions of consulting them, and no difference of judgment appeared on the subjects. Those of Commodore Barron and Captain Tingey, now here, are recently furnished in writing, and transmitted herewith to the legislature.

The efficacy of gun-boats for the defence of harbors, and of other smooth and enclosed waters, may be estimated in part from that of galleys, formerly much used, but less powerful, more costly in their construction and maintenance, and requiring more men. But the gun-boat itself is believed to be in use with every modern maritime nation for the purpose of defence. In the Mediterranean, on which are several small powers, whose system like ours is peace and defence, few harbors are without this article of protection. Our own experience there of the effect of gun-boats for harbor service, is recent. Algiers is particularly known to have owed to a great provision of these vessels the safety of its city, since the epoch of their construction. Before that it had been repeatedly insulted and injured. The effect of gun-boats at present in the neighborhood of Gibraltar, is well known, and how much they were used both in the attack and defence of that place during a former war. The extensive resort to them by the two greatest naval powers in the world, on an enterprise of invasion not long since in prospect, shows their confidence in their efficacy for the purposes for which they are suited. By the northern powers of Europe, whose seas are particularly adapted to them, they are still more used. The remarkable action between the Russian flotilla of gun-boats and galleys, and a Turkish fleet of ships-of-the-line and frigates, in the Liman sea, 1788, will be readily recollected. The latter, commanded by their most celebrated admiral, were completely defeated, and several of their ships-of-the-line destroyed.

From the opinions given as to the number of gun-boats necessary for some of the principal seaports, and from a view of all the towns and ports from Orleans to Maine inclusive, entitled to protection, in proportion to their situation and circumstances, it is concluded, that to give them a due measure of protection in time of war, about two hundred gun-boats will be requisite. According to first ideas, the following would be their general distribution, liable to be varied on more mature examination, and as circumstances shall vary, that is to say:—

To the Mississippi and its neighboring waters, forty gun-boats.

To Savannah and Charleston, and the harbors on each side, from St. Mary's to Currituck, twenty-five.

To the Chesapeake and its waters, twenty.

To Delaware bay and river, fifteen.

To New York, the Sound, and waters as far as Cape Cod, fifty.

To Boston and the harbors north of Cape Cod, fifty.

The flotilla assigned to these several stations, might each be under the care of a particular commandant, and the vessels composing them would, in ordinary, be distributed among the harbors within the station in proportion to their importance.

Of these boats a proper proportion would be of the larger size, such as those heretofore built, capable of navigating any seas, and of reinforcing occasionally the strength of even the most distant port when menaced with danger. The residue would be confined to their own or the neighboring harbors, would be smaller, less furnished for accommodation, and consequently less costly. Of the number supposed necessary, seventy-three are built or building, and the hundred and twenty-seven still to be provided, would cost from five to six hundred thousand dollars. Having regard to the convenience of the treasury, as well as to the resources of building, it has been thought that one half of these might be built in the present year, and the other year the next. With the legislature, however, it will rest to stop where we are, or at any further point, when they shall be of opinion that the number provided shall be sufficient for the object.

At times when Europe as well as the United States shall be at peace, it would not be proposed that more than six or eight of these vessels sould be kept afloat. When Europe is in war, treble that number might be necessary to be distributed among those particular harbors which foreign vessels of war are in the habit of frequenting, for the purpose of preserving order therein.

But they would be manned, in ordinary, with only their complement for navigation, relying on the seamen and militia of the port if called into action on sudden emergency. It would be only when the United States should themselves be at war, that the whole number would be brought into actual service, and would be ready in the first moments of the war to co-operate with other means for covering at once the line of our seaports. At all times, those unemployed would be withdrawn into places not exposed to sudden enterprise, hauled up under sheds from the sun and weather, and kept in preservation with little expense for repairs or maintenance.

It must be superfluous to observe, that this species of naval armament is proposed merely for defensive operation; that it can have but little effeect toward protecting our commerce in the open seas even on our coast; and still less can it become an excitement to engage in offensive maritime war, toward which it would furnish no means.

SEVENTH ANNUAL MESSAGE.—October 27, 1807.

To the Senate and House of Representatives of the United States:—

Circumstances, fellow citizens, which seriously threatened the peace of our country, have made it a duty to convene you at an earlier period than usual. The love of peace, so much cherished in the bosoms of our citizens, which has so long guided the proceedings of the public councils, and induced forbearance under so many wrongs, may not insure our continuance in the quiet

pursuits of industry. The many injuries and depredations committed on our commerce and navigation upon the high seas for years past, the successive innovations on those principles of public law which have been established by the reason and usage of nations as the rule of their intercourse, and the umpire and security of their rights and peace, and all the circumstances which induced the extraordinary mission to London, are already known to you. The instructions given to our ministers were framed in the sincerest spirit of amity and moderation. They accordingly proceeded, in conformity therewith, to propose arrangements which might embrace and settle all the points in difference between us, which might bring us to a mutual understanding on our neutral and national rights, and provide for a commercial intercourse on conditions of some equality. After long and fruitless endeavors to effect the purposes of their mission, and to obtain arrangements within the limits of their instructions, they concluded to sign such as could be obtained, and to send them for consideration, candidly declaring to the other negotiators, at the same time, that they were acting against their instructions, and that their government, therefore, could not be pledged for ratification. Some of the articles proposed might have been admitted on a principle of compromise, but others were too highly disadvantageous, and no sufficient provision was made against the principal source of the irritations and collisions which were constantly endangering the peace of the two nations. The question, therefore, whether a treaty should be accepted in that form could have admitted but of one decision, even had no declarations of the other party impaired our confidence in it. Still anxious not to close the door against friendly adjustment, new modifications were framed, and further concessions authorized than could before have been supposed necessary; and our ministers were instructed to resume their negotiations on these grounds. On this new reference to amicable discussion, we were reposing in confidence, when on the 22d day of June last, by a formal order from the British admiral, the frigate Chesapeake, leaving her port for distant service, was attacked by one

of those vessels which had been lying in our harbors under the indulgences of hospitality, was disabled from proceeding, had several of her crew killed, and four taken away. On this outrage no commentaries are necessary. Its character has been pronounced by the indignant voice of our citizens with an emphasis and unanimity never exceeded. I immediately, by proclamation, interdicted our harbors and waters to all British armed vessels, forbade intercourse with them, and uncertain how far hostilities were intended, and the town of Norfolk, indeed, being threatened with immediate attack, a sufficient force was ordered for the protection of that place, and such other preparations commenced and pursued as the prospect rendered proper. An armed vessel of the United States was despatched with instructions to our ministers at London to call on that government for the satisfaction and security required by the outrage. A very short interval ought now to bring the answer, which shall be communicated to you as soon as received; then also, or as soon after as the public interests shall be found to admit, the unratified treaty, and the proceedings relative to it, shall be made known to you.

The aggression thus begun has been continued on the part of the British commanders, by remaining within our waters, in defiance of the authority of the country, by habitual violations of its jurisdiction, and at length by putting to death one of the persons whom they had forcibly taken from on board the Chesapeake. These aggravations necessarily lead to the policy, either of never admitting an armed vessel into our harbors, or of maintaining in every harbor such an armed force as may constrain obedience to the laws, and protect the lives and property of our citizens, against their armed guests. But the expense of such a standing force, and its inconsistence with our principles, dispense with those courtesies which would necessarily call for it, and leave us equally free to exclude the navy, as we are the army, of a foreign power, from entering our limits.

To former violations of maritime rights, another is now added of very extensive effect. The government of that nation has

issued an order interdicting all trade by neutrals between ports not in amity with them; and being now at war with nearly every nation on the Atlantic and Mediterranean seas, our vessels are required to sacrifice their cargoes at the first port they touch, or to return home without the benefit of going to any other market. Under this new law of the ocean, our trade on the Mediterranean has been swept away by seizures and condemnations, and that in other seas is threatened with the same fate.

Our differences with Spain remain still unsettled; no measure having been taken on her part, since my last communication to Congress, to bring them to a close. But under a state of things which may favor a reconsideration, they have been recently pressed, and an expectation is entertained that they may now soon be brought to an issue of some sort. With their subjects on our borders, no new collisions have taken place nor seem immediately to be apprehended. To our former grounds of complaint has been added a very serious one, as you will see by the decree, a copy of which is now communicated. Whether this decree, which professes to be conformable to that of the French government of November 21st, 1806, heretofore communicated to Congress, will also be conformed to that in its construction and application in relation to the United States, had not been ascertained at the date of our last communications. These, however, gave reason to expect such a conformity.

With the other nations of Europe our harmony has been uninterrupted, and commerce and friendly intercourse have been maintained on their usual footing.

Our peace with the several States on the coast of Barbary appears as firm as at any former period, and is as likely to continue as that of any other nation.

Among our Indian neighbors in the north-western quarter, some fermentation was observed soon after the late occurrences, threatening the continuance of our peace. Messages were said to be interchanged, and tokens to be passing, which usually denote a state of restlessness among them, and the character of the agitators pointed to the sources of excitement. Measures were

immediately taken for providing against that danger; instructions were given to require explanations, and with assurances of our continued friendship, to admonish the tribes to remain quiet at home, taking no part in quarrels not belonging to them. As far as we are yet informed, the tribes in our vicinity, who are most advanced in the pursuits of industry, are sincerely disposed to adhere to their friendship with us, and to their peace with all others; while those more remote do not present appearances sufficiently quiet to justify the intermission of military precaution on our part.

The great tribes on our south-western quarter, much advanced beyond the others in agriculture and household arts, appear tranquil, and identifying their views with ours, in proportion to their advancement. With the whole of these people, in every quarter, I shall continue to inculcate peace and friendship with all their neighbors, and perseverance in those occupations and pursuits which will best promote their own well-being.

The appropriations of the last session, for the defence of our seaport towns and harbors, were made under expectation that a continuance of our peace would permit us to proceed in that work according to our convenience. It has been thought better to apply the sums then given, toward the defence of New York, Charleston, and New Orleans chiefly, as most open and most likely first to need protection; and to leave places less immediately in danger to the provisions of the present session.

The gun-boats, too, already provided, have on a like principle been chiefly assigned to New York, New Orleans, and the Chesapeake. Whether our movable force on the water, so material in aid of the defensive works on the land, should be augmented in this or any other form, is left to the wisdom of the legislature. For the purpose of manning these vessels in sudden attacks on our harbors, it is a matter for consideration, whether the seamen of the United States may not justly be formed into a special militia, to be called on for tours of duty in defence of the harbors where they shall happen to be; the ordinary militia of the place furnishing that portion which may consist of landsmen.

The moment our peace was threatened, I deemed it indispensable to secure a greater provision of those articles of military stores with which our magazines were not sufficiently furnished. To have awaited a previous and special sanction by law would have lost occasions which might not be retrieved. I did not hesitate, therefore, to authorize engagements for such supplements to our existing stock as would render it adequate to the emergencies threatening us; and I trust that the legislature, feeling the same anxiety for the safety of our country, so materially advanced by this precaution, will approve, when done, what they would have seen so important to be done if then assembled. Expenses, also unprovided for, arose out of the necessity of calling all our gun-boats into actual service for the defence of our harbors; of all which accounts will be laid before you.

Whether a regular army is to be raised, and to what extent, must depend on the information so shortly expected. In the meantime, I have called on the States for quotas of militia, to be in readiness for present defence; and have, moreover, encouraged the acceptance of volunteers; and I am happy to inform you that these have offered themselves with great alacrity in every part of the Union. They are ordered to be organized, and ready at a moment's warning to proceed on any service to which they may be called, and every preparation within the executive powers has been made to insure us the benefit of early exertions.

I informed Congress at their last session of the enterprises against the public peace, which were believed to be in preparation by Aaron Burr and his associates, of the measures taken to defeat them, and to bring the offenders to justice. Their enterprises were happily defeated by the patriotic exertions of the militia wherever called into action, by the fidelity of the army, and energy of the commander-in-chief in promptly arranging the difficulties presenting themselves on the Sabine, repairing to meet those arising on the Mississippi, and dissipating, before their explosion, plots engendering there. I shall think it my duty to lay before you the proceedings and the evidence publicly exhibited on the arraignment of the principal offenders before the

circuit court of Virginia. You will be enabled to judge whether the defeat was in the testimony, in the law, or in the administration of the law; and wherever it shall be found, the legislature alone can apply or originate the remedy. The framers of our constitution certainly supposed they had guarded, as well their government against destruction by treason, as their citizens against oppression, under pretence of it; and if these ends are not attained, it is of importance to inquire by what means, more effectual, they may be secured.

The accounts of the receipts of revenue, during the year ending on the thirtieth day of September last, being not yet made up, a correct statement will be hereafter transmitted from the treasury. In the meantime, it is ascertained that the receipts have amounted to near sixteen millions of dollars, which, with the five millions and a half in the treasury at the beginning of the year, have enabled us, after meeting the current demands and interest incurred, to pay more than four millions of the principal of our funded debt. These payments, with those of the preceding five and a half years, have extinguished of the funded debt twenty-five millions and a half of dollars, being the whole which could be paid or purchased within the limits of the law and of our contracts, and have left us in the treasury eight millions and a half of dollars. A portion of this sum may be considered as a commencement of accumulation of the surpluses of revenue, which, after paying the instalments of debts as they shall become payable, will remain without any specific object. It may partly, indeed, be applied toward completing the defence of the exposed points of our country, on such a scale as shall be adapted to our principles and circumstances. This object is doubtless among the first entitled to attention, in such a state of our finances, and it is one which, whether we have peace or war, will provide security where it is due. Whether what shall remain of this, with the future surpluses, may be usefully applied to purposes already authorized, or more usefully to others requiring new authorities, or how otherwise they shall be disposed of, are questions calling for the notice of Congress.

unless indeed they shall be superseded by a change in our public relations now awaiting the determination of others. Whatever be that determination, it is a great consolation that it will become known at a moment when the supreme council of the nation is assembled at its post, and ready to give the aids of its wisdom and authority to whatever course the good of our country shall then call us to pursue.

Matters of minor importance will be the subjects of future communications; and nothing shall be wanting on my part which may give information or despatch to the proceedings of the legislature in the exercise of their high duties, and at a moment so interesting to the public welfare.

SPECIAL MESSAGE.—November 23, 1807.

To the Senate and House of Representatives of the United States :—

Agreeably to the assurance in my message at the opening of the present session of Congress, I now lay before you a copy of the proceedings, and of the evidence exhibited on the arraignment of Aaron Burr, and others, before the circuit court of the United States, held in Virginia, in the course of the present year, in as authentic form as their several parts have admitted.

SPECIAL MESSAGE.—December 18, 1807.

To the Senate and House of Representatives of the United States :—

The communications now made, showing the great and increasing dangers with which our vessels, our seamen, and merchandise, are threatened on the high seas and elsewhere, from the belligerent powers of Europe, and it being of great import-

ance to keep in safety these essential resources, I deem it my duty to recommend the subject to the consideration of Congress, who will doubtless perceive all the advantages which may be expected from an inhibition of the departure of our vessels from the ports of the United States.

Their wisdom will also see the necessity of making every preparation for whatever events may grow out of the present crisis.

SPECIAL MESSAGE—JANUARY 20, 1808.

To the House of Representatives of the United States :—

Some days previous to your resolution of the 13th instant, a court of inquiry had been instituted at the request of General Wilkinson, charged to make the inquiry into his conduct which the first resolution desires, and had commenced their proceedings. To the judge-advocate of that court the papers and information on that subject, transmitted to me by the House of Representatives, have been delivered, to be used according to the rules and powers of that court.

The request of a communication of any information, which may have been received at any time since the establishment of the present government, touching combinations with foreign nations for dismembering the Union, or the corrupt receipt of money by any officer of the United States from the agents of foreign governments, can be complied with but in a partial degree.

It is well understood that, in the first or second year of the presidency of General Washington, information was given to him relating to certain combinations with the agents of a foreign government for the dismemberment of the Union ; which combinations had taken place before the establishment of the present federal government. This information, however, is believed never to have been deposited in any public office, or left in that of the president's secretary, these having been duly examined,

but to have been considered as personally confidential, and, therefore, retained among his private papers. A communication from the governor of Virginia to General Washington, is found in the office of the president's secretary, which, although not strictly within the terms of the request of the House of Representatives, is communicated, inasmuch as it may throw some light on the subjects of the correspondence of that time, between certain foreign agents and citizens of the United States.

In the first or second year of the administration of President Adams, Andrew Ellicott, then employed in designating, in conjunction with the Spanish authorities, the boundaries between the territories of the United States and Spain, under the treaty with that nation, communicated to the executive of the United States papers and information respecting the subjects of the present inquiry, which were deposited in the office of State. Copies of these are now transmitted to the House of Representatives, except of a single letter and a reference from the said Andrew Ellicott, which being expressly desired to be kept secret, is therefore not communicated, but its contents can be obtained from himself in a more legal form, and directions have been given to summon him to appear as a witness before the court of inquiry.

A paper "on the commerce of Louisiana," bearing date of the 18th of April, 1798, is found in the office of State, supposed to have been communicated by Mr. Daniel Clark, of New Orleans, then a subject of Spain, and now of the House of Representatives of the United States, stating certain commercial transactions of General Wilkinson, in New Orleans; an extract from this is now communicated, because it contains facts which may have some bearing on the questions relating to him.

The destruction of the war-office, by fire, in the close of 1800, involved all information it contained at that date.

The papers already described, therefore, constitute the whole information on the subjects, deposited in the public offices, during the preceding administrations, as far as has yet been found; but it cannot be affirmed that there may be no others, because, the papers of the office being filed, for the most part, alphabetically,

unless aided by the suggestion of any particular name which may have given such information, nothing short of a careful examination of the papers in the offices generally, could authorize such affirmation.

About a twelvemonth after I came to the administration of the government, Mr. Clark gave some verbal information to myself, as well as to the Secretary of State, relating to the same combinations for the dismemberment of the Union. He was listened to freely, and he then delivered the letter of Governor Gagoso, addressed to himself, of which a copy is now communicated. After his return to New Orleans, he forwarded to the Secretary of State other papers, with a request that, after perusal, they should be burned. This, however, was not done, and he was so informed by the Secretary of State, and that they would be held subject to his order. These papers have not yet been found in the office. A letter, therefore, has been addressed to the former chief clerk, who may, perhaps, give information respecting them. As far as our memories enables us to say, they related only to the combinations before spoken of, and not at all to the corrupt receipt of money by any officer of the United States; consequently, they respected what was considered as a dead matter, known to the preceding administrations, and offering nothing new to call for investigations, which those nearest the dates of the transactions had not thought proper to institute.

In the course of the communications made to me on the subject of the conspiracy of Aaron Burr, I sometimes received letters, some of them anonymous, some under names true or false, expressing suspicions and insinuations against General Wilkinson. But one only of them, and that anonymous, specified any particular fact, and that fact was one of those which had already been communicated to a former administration.

No other information within the purview of the request of the house is known to have been received by any department of the government from the establishment of the present federal government. That which has recently been communicated to the House of Representatives, and by them to me, is the first direct

testimony ever made known to me, charging General Wilkinson with the corrupt receipt of money; and the House of Representatives may be assured that the duties which this information devolves on me shall be exercised with rigorous impartiality. Should any want of power in the court to compel the rendering of testimony, obstruct that full and impartial inquiry, which alone can establish guilt or innocence, and satisfy justice, the legislative authority only will be competent to the remedy.

SPECIAL MESSAGE.—JANUARY 30, 1808.

To the Senate and House of Representatives of the United States :—

The Choctaws being indebted to their merchants beyond what could be discharged by the ordinary proceeds of their huntings, and pressed for payment, proposed to the United States to cede lands to the amount of their debts, and designated them in two different portions of their country. These designations not at all suiting us, were declined. Still, urged by their creditors, as well as their own desire to be liberated from debt, they at length proposed to make a cession which should be to our convenience. By a treaty signed at Pooshapakonuk, on the 16th November, 1805, they accordingly ceded all their lands south of a line to be run from their and our boundary at the Omochita, eastwardly to their boundary with the Creeks on the ridge between the Tombigbee and Alabama, as is more particularly described in the treaty, containing about five millions of acres, as is supposed, and uniting our possessions there from Adams to Washington county.

The location contemplated in the instructions to the commissioners was on the Mississippi. That in the treaty being entirely different, I was, at that time, disinclined to its ratification, and have suffered it to be unacted on. But progressive difficulties in our foreign relations have brought into view considerations others

than those which then prevailed. It is perhaps now as interesting to obtain footing for a strong settlement of militia along our southern frontier, eastward of the Mississippi, as on the west of that river, and more so than higher up the river itself. The consolidation of the Mississippi territory, and the establishment of a barrier of separation between the Indians and our southern neighbors, are also important objects; and the Choctaws and their creditors being still anxious that the sale should be made, I submitted the treaty to the Senate, who have advised and consented to its ratification. I, therefore, now lay it before both houses of Congress for the exercise of their constitutional powers as to the means of fulfilling it.

SPECIAL MESSAGE.—JANUARY 30, 1808.

To the Senate and House of Representatives of the United States :—

The posts of Detroit and Mackinac, having been originally intended by the governments which established and held them, as mere depôts for the commerce with the Indians, very small cessions of land around were obtained or asked from the native proprietors, and these posts depended for protection on the strength of their garrisons. The principle of our government leading us to the employment of such moderate garrisons in time of peace, as may merely take care of the post, and to a reliance on the neighboring militia for its support in the first moments of war, I have thought it would be important to obtain from the Indians such a cession of the neighborhood of these posts as might maintain a militia proportioned to this object; and I have particularly contemplated, with this view, the acquisition of the eastern moiety of the peninsula between the lakes Huron, Michigan, and Erie, extending it to the Connecticut reserve, so soon as it could be effected with the perfect good will of the natives.

By a treaty concluded at Detroit, on the 17th of November last, with the Ottawas, Chippewas, Wyandots, and Pottawatomies, so much of this country has been obtained as extends from about Saguina bay southwardly to the Miami of the lakes, supposed to contain upward of five millions of acres, with a prospect of obtaining, for the present, a breadth of two miles for a communication from the Miami to the Connecticut reserve.

The Senate having advised and consented to the ratification of this treaty, I now lay it before both houses of Congress for the exercise of their constitutional powers as to the means of fulfilling it.

SPECIAL MESSAGE.—February 2, 1808.

To the Senate and House of Representatives of the United States :—

Having received an official communication of certain orders of the British government against the maritime rights of neutrals, bearing date of the 11th of November, 1807, I transmitted to Congress, as a further proof of the increasing dangers to our navigation and commerce which led to the provident measures of the present session, laying an embargo on our own vessels.

SPECIAL MESSAGE.—February 4, 1808.

To the House of Representatives of the United States :—

In my message, January 20th, I stated that some papers forwarded by Mr. Daniel Clark, of New Orleans, to the Secretary of State, in 1803, had not then been found in the office of State; and that a letter had been addressed to the former chief clerk, in the hope that he might advise where they should be sought for. By indications received from him they are now found. Among them are two letters from the Baron de Carondelet to an officer

serving under him at a separate post, in which his views of a dismemberment of our Union are expressed. Extracts of so much of these letters as are within the scope of the resolutions of the house, are now communicated. With these were found the letters from Mr. Clark, to the Secretary of State, in 1803. A part of one only of these relates to this subject, and is extracted and enclosed for the information of the house. In no part of the papers communicated by Mr. Clark, which are voluminous, and in different languages, nor in his letters, have we found any intimation of the corrupt receipt of money by any officer of the United States from any foreign nation. As to the combinations with foreign agents for the dismemberment of the Union, these papers and letters offer nothing which was not probably known to my predecessors, or which could call anew for inquiries, which they had not thought necessary to institute, when the facts were recent and could be better proved. They probably believed it best to let pass into oblivion transactions, which, however culpable, had commenced before this government existed, and had been finally extinguished by the treaty of 1795.

SPECIAL MESSAGE.—February 9, 1808.

To the Senate and House of Representatives of the United States :—

I communicate to Congress, for their information, a letter from the person acting in the absence of our consul at Naples, giving reason to believe, on the affidavit of a Captain Sheffield of the American schooner Mary Ann, that the dey of Algiers had commenced war against the United States. For this no just cause has been given on our part within my knowledge. We may daily expect more authentic and particular information on the subject from Mr. Lear, who was residing as our consul at Algiers.

SPECIAL MESSAGE.—February 15, 1808.

To the Senate and House of Representatives of the United States :—

I communicate for the information of Congress a letter from the consul of the United States at Malaga, to the Secretary of State, covering one from Mr. Lear, our consul at Algiers, which gives information, that the rupture threatened on the part of the dey of Algiers has been amicably settled, and the vessels seized by him are liberated.

SPECIAL MESSAGE.—February 19, 1808.

To the Senate and House of Representatives of the United States :—

The States of Pennsylvania, Maryland, and Virginia, having, by their several acts, consented that the road from Cumberland to the State of Ohio, authorized by the act of Congress of the 29th March, 1806, should pass through those States, and the report of the commissioners communicated to Congress with my message of the 31st January, 1807, having been duly considered, I have approved of the route therein proposed for the said road, as far as Brownsville, with a single deviation since located, which carries it through Uniontown.

From thence the course of the Ohio, and the point within the legal limits at which it shall strike that river, is still to be decided. In forming this decision, I shall pay material regard to the interests and wishes of the populous part of the State of Ohio, and to a future and convenient connection with the road which is to lead from the Indian boundary near Cincinnati, by Vincennes to the Mississippi, at St. Louis, under authority of the act, 21st April, 1806. In this way we may accomplish a continued and advantageous line of communication from the seat of the general government to St. Louis, passing through several very interesting points of the western country.

I have thought it advisable also to secure from obliteration the trace of the road so far as it has been approved, which has been executed at such considerable expense, by opening one half of its breadth through its whole length.

The report of the commissioners, herewith transmitted, will give particular information of their proceedings, under the act of the 29th March, 1806, since the date of my message of the 31st January, 1807, and will enable Congress to adopt further measures relative thereto, as they may deem proper under existing circumstances.

SPECIAL MESSAGE.—February 25, 1808.

To the Senate and House of Representatives of the United States :—

The dangers of our country, arising from the contests of other nations and the urgency of making preparation for whatever events might affect our relations with them, have been intimated in preceding messages to Congress. To secure ourselves by due precautions, an augmentation of our military force, as well regular as of volunteer militia, seems to be expedient. The precise extent of that augmentation cannot as yet be satisfactorily suggested, but that no time may be lost, and especially at a season deemed favorable to the object, I submit to the wisdom of the legislature whether they will authorize a commencement of this precautionary work by a present provision for raising and organizing some additional force ; reserving to themselves to decide its ultimate extent on such views of our situation as I may be enabled to present at a future day of the session.

If an increase of force be now approved, I submit to their consideration the outlines of a plan proposed in the enclosed letter from the Secretary of War.

I recommend, also, to the attention of Congress, the term at which the act of April 18th, 1806, concerning the militia, will expire, and the effect of that expiration.

SPECIAL MESSAGE.—March 7, 1808.

To the Senate and House of Representatives of the United States :—

In the city of New Orleans, and adjacent to it, are sundry parcels of ground, some of them with buildings and other improvements on them, which it is my duty to present to the attention of the legislature. The title to those grounds appear to have been retained in the former sovereigns of the province of Louisiana, as public fiduciaries, and for the purposes of the province. Some of them were used for the residence of the governor, for public offices, hospitals, barracks, magazines, fortifications, levees, &c., others for the townhouse, schools, markets, landings, and other purposes of the city of New Orleans ; some were held by religious corporations or persons ; others seem to have been reserved for future disposition. To these must be added a parcel called the Batture, which requires more particular description. It is understood to have been a shoal or elevation of the bottom of the river, adjacent to the bank of the suburbs of St. Mary, produced by the successive depositions of mud during the annual inundations of the river, and covered with water only during those inundations. At all other seasons it has been used by the city, immemorially to furnish earth for raising their streets and courtyards, for mortar, and other necessary purposes, and as a landing or quay for unlading firewood, lumber, and other articles brought by water. This having been lately claimed by a private individual, the city opposed the claim on a supposed legal title in itself ; but it has been adjudged that the legal title was not in the city. It is, however, alleged that that title, originally in the former sovereigns, was never parted with by them, but was retained in them for the uses of the city and province, and consequently has now passed over to the United States. Until this question can be decided under legislative authority, measures have been taken, according to law, to prevent any change in the state of things, and to keep the grounds clear of intruders. The settlement of this title, the appropriations of

the grounds and improvements formerly occupied for provincial purposes to the same or such other objects as may be better suited to present circumstances; the confirmation of the uses in other parcels to such bodies, corporate or private, as may of right, or other reasonable considerations, expect them, are matters now submitted to the legislature.

The papers and plans now transmitted, will give them such information on the subject as I possess, and being mostly originals, I must request that they may be communicated from the one to the other house to answer the purposes of both.

SPECIAL MESSAGE.—March 17, 1808.

To the Senate and House of Representatives of the United States:—

I have heretofore communicated to Congress the decrees of the government of France, of November 21st, 1806, and of Spain, February 19th, 1807, with the orders of the British government, of January and November, 1807.

I now transmit a decree of the Emperor of France, of December 17th, 1807, and a similar decree of the 3d January last, by his Catholic Majesty. Although the decree of France has not been received by official communication, yet the different channels of promulgation through which the public are possessed of it, with the formal testimony furnished by the government of Spain, in their decree, leave us without a doubt that such a one has been issued. These decrees and orders, taken together, want little of amounting to a declaration that every neutral vessel found on the high seas, whatsoever be her cargo, and whatsoever foreign port be that of her departure or destination, shall be deemed lawful prize; and they prove, more and more, the expediency of retaining our vessels, our seamen, and property, within our own harbors, until the dangers to which they are exposed can be removed or lessened.

SPECIAL MESSAGE.—March 18, 1808.

To the Senate and House of Representatives of the United States:

The scale on which the military academy at West Point was originally established, is become too limited to furnish the number of well-instructed subjects in the different branches of artillery and engineering which the public service calls for. The want of such characters is already sensibly felt, and will be increased with the enlargement of our plans of military preparation. The chief engineer having been instructed to consider the subject, and to propose an augmentation which might render the establishment commensurate with the present circumstances of our country, has made the report I now transmit for the consideration of Congress.

The idea suggested by him of removing the institution to this place, is also worthy of attention. Beside the advantage of placing it under the immediate eye of the government, it may render its benefits common to the naval department, and will furnish opportunities of selecting on better information, the characters most qualified to fulfil the duties which the public service may call for.

SPECIAL MESSAGE.—March 22, 1808.

To the Senate and House of Representatives of the United States:—

At the opening of the present session I informed the legislature that the measures which had been taken with the government of Great Britain for the settlement of our neutral and national rights, and of the conditions of commercial intercourse with that nation, had resulted in articles of a treaty which could not be acceded to on our part; that instructions had consequently been sent to our ministers there to resume the negotiations, and to endeavor to obtain certain alterations; and that this was

interrupted by the transaction which took place between the frigates Leopard and Chesapeake. The call on that government for reparation of this wrong produced, as Congress have already been informed, the mission of a special minister to this country, and the occasion is now arrived when the public interest permits and requires that the whole of these proceedings should be made known to you.

I therefore now communicate the instructions given to our minister resident at London, and his communications to that government on the subject of the Chesapeake, with the correspondence which has taken place here between the Secretary of State and Mr. Rose, the special minister charged with the adjustment of that difference; the instructions to our ministers for the formation of a treaty; their correspondence with the British commissioners and with their own government on that subject; the treaty itself, and written declaration of the British commissioners accompanying it, and the instructions given by us for resuming the negotiations, with the proceedings and correspondence subsequent thereto. To these I have added a letter lately addressed to the Secretary of State from one of our late ministers, which, though not strictly written in an official character, I think it my duty to communicate, in order that his views of the proposed treaty and its several articles may be fairly presented and understood.

Although I have heretofore and from time to time made such communications to Congress as to keep them possessed of a general and just view of the proceedings and dispositions of the government of France toward this country, yet, in our present critical situation, when we find no conduct on our part, however impartial and friendly, has been sufficient to insure from either belligerent a just respect for our rights, I am desirous that nothing shall be omitted on my part which may add to your information on this subject, or contribute to the correctness of the views which should be formed. The papers which for these reasons I now lay before you embrace all the communications, official or verbal, from the French government, respecting the general rela-

tions between the two countries which have been transmitted through our minister there, or through any other accredited channel, since the last session of Congress, to which time all information of the same kind had from time to time been given them. Some of these papers have already been submitted to Congress; but it is thought better to offer them again, in order that the chain of communications, of which they make a part, may be presented unbroken.

When, on the 26th of February, I communicated to both houses the letter of General Armstrong to M. Champagny, I desired it might not be published, because of the tendency of that practice to restrain injuriously the freedom of our foreign correspondence. But perceiving that this caution, proceeding purely from a regard for the public good, has furnished occasion for disseminating unfounded suspicions and insinuations, I am induced to believe that the good which will now result from its publication, by confirming the confidence and union of our fellow citizens, will more than countervail the ordinary objection to such publications. It is my wish, therefore, that it may be now published.

EIGHTH ANNUAL MESSAGE.—November 8, 1808.

To the Senate and House of Representatives of the United States :—

It would have been a source, fellow citizens, of much gratification, if our last communications from Europe had enabled me to inform you that the belligerent nations, whose disregard of neutral rights has been so destructive to our commerce, had become awakened to the duty and true policy of revoking their unrighteous edicts. That no means might be omitted to produce this salutary effect, I lost no time in availing myself of the act authorizing a suspension, in whole or in part, of the several embargo laws. Our ministers at London and Paris were instructed

to explain to the respective governments there, our disposition to exercise the authority in such manner as would withdraw the pretext on which the aggressions were originally founded, and open the way for a renewal of that commercial intercourse which it was alleged on all sides had been reluctantly obstructed. As each of those governments had pledged its readiness to concur in renouncing a measure which reached its adversary through the incontestable rights of neutrals only, and as the measure had been assumed by each as a retaliation for an asserted acquiescence in the aggressions of the other, it was reasonably expected that the occasion would have been seized by both for evincing the sincerity of their profession, and for restoring to the commerce of the United States its legitimate freedom. The instructions to our ministers with respect to the different belligerents were necessarily modified with reference to their different circumstances, and to the condition annexed by law to the executive power of suspension, requiring a degree of security to our commerce which would not result from a repeal of the decrees of France. Instead of a pledge, therefore, of a suspension of the embargo as to her in case of such a repeal, it was presumed that a sufficient inducement might be found in other considerations, and particularly in the change produced by a compliance with our just demands by one belligerent, and a refusal by the other, in the relations between the other and the United States. To Great Britain, whose power on the ocean is so ascendant, it was deemed not inconsistent with that condition to state explicitly, that on her rescinding her orders in relation to the United States their trade would be opened with her, and remain shut to her enemy, in case of his failure to rescind his decrees also. From France no answer has been received, nor any indication that the requisite change in her decrees is contemplated. The favorable reception of the proposition to Great Britain was the less to be doubted, as her orders of council had not only been referred for their vindication to an acquiesence on the part of the United States no longer to be pretended, but as the arrangement proposed, while it resisted the illegal decrees of France, involved, moreover, substantially,

the precise advantages professedly aimed at by the British orders. The arrangement has nevertheless been rejected.

This candid and liberal experiment having thus failed, and no other event having occurred on which a suspension of the embargo by the executive was authorized, it necessarily remains in the extent originally given to it. We have the satisfaction, however, to reflect, that in return for the privations by the measure, and which our fellow citizens in general have borne with patriotism, it has had the important effects of saving our mariners and our vast mercantile property, as well as of affording time for prosecuting the defensive and provisional measures called for by the occasion. It has demonstrated to foreign nations the moderation and firmness which govern our councils, and to our citizens the necessity of uniting in support of the laws and the rights of their country, and has thus long frustrated those usurpations and spoliations which, if resisted, involve war; if submitted to, sacrificed a vital principle of our national independence.

Under a continuance of the belligerent measures which, in defiance of laws which consecrate the rights of neutrals, overspread the ocean with danger, it will rest with the wisdom of Congress to decide on the course best adapted to such a state of things; and bringing with them, as they do, from every part of the Union, the sentiments of our constituents, my confidence is strengthened, that in forming this decision they will, with an unerring regard to the essential rights and interests of the nation, weigh and compare the painful alternatives out of which a choice is to be made. Nor should I do justice to the virtues which on other occasions have marked the character of our fellow citizens, if I did not cherish an equal confidence that the alternative chosen, whatever it may be, will be maintained with all the fortitude and patriotism which the crisis ought to inspire.

The documents containing the correspondences on the subject of the foreign edicts against our commerce, with the instructions given to our ministers at London and Paris, are now laid before you.

The communications made to Congress at their last session explained the posture in which the close of the discussion relating

to the attack by a British ship of war on the frigate Chesapeake left a subject on which the nation had manifested so honorable a sensibility. Every view of what had passed authorized a belief that immediate steps would be taken by the British government for redressing a wrong, which, the more it was investigated, appeared the more clearly to require what had not been provided for in the special mission. It is found that no steps have been taken for the purpose. On the contrary, it will be seen, in the documents laid before you, that the inadmissible preliminary which obstructed the adjustment is still adhered to; and, moreover, that it is now brought into connection with the distinct and irrelative case of the orders in council. The instructions which had been given to our ministers at London with a view to facilitate, if necessary, the reparation claimed by the United States, are included in the documents communicated.

Our relations with the other powers of Europe have undergone no material changes since your last session. The important negotiations with Spain, which had been alternately suspended and resumed, necessarily experience a pause under the extraordinary and interesting crisis which distinguished her internal situation.

With the Barbary powers we continue in harmony, with the exception of an unjustifiable proceeding of the dey of Algiers toward our consul to that regency. Its character and circumstances are now laid before you, and will enable you to decide how far it may, either now or hereafter, call for any measures not within the limits of the executive authority.

With our Indian neighbors the public peace has been steadily maintained. Some instances of individual wrong have, as at other times, taken place, but in nowise implicating the will of the nation. Beyond the Mississippi, the Iowas, the Sacs, and the Alabamas, have delivered up for trial and punishment individuals from among themselves accused of murdering citizens of the United States. On this side of the Mississippi, the Creeks are exerting themselves to arrest offenders of the same kind; and the Choctaws have manifested their readiness and desire for

amicable and just arrangements respecting depredations committed by disorderly persons of their tribe. And, generally, from a conviction that we consider them as part of ourselves, and cherish with sincerity their rights and interests, the attachment of the Indian tribes is gaining strength daily—is extending from the nearer to the more remote, and will amply requite us for the justice and friendship practised towards them. Husbandry and household manufacture are advancing among them, more rapidly with the southern than the northern tribes, from circumstances of soil and climate; and one of the two great divisions of the Cherokee nation have now under consideration to solicit the citizenship of the United States, and to be identified with us in laws and government, in such progressive manner as we shall think best.

In consequence of the appropriations of the last session of Congress for the security of our seaport towns and harbors, such works of defence have been erected as seemed to be called for by the situation of the several places, their relative importance, and the scale of expense indicated by the amount of the appropriation. These works will chiefly be finished in the course of the present season, except at New York and New Orleans, where most was to be done; and although a great proportion of the last appropriation has been expended on the former place, yet some further views will be submitted to Congress for rendering its security entirely adequate against naval enterprise. A view of what has been done at the several places, and of what is proposed to be done, shall be communicated as soon as the several reports are received.

Of the gun-boats authorized by the act of December last, it has been thought necessary to build only one hundred and three in the present year. These, with those before possessed, are sufficient for the harbors and waters exposed, and the residue will require little time for their construction when it is deemed necessary.

Under the act of the last session for raising an additional military force, so many officers were immediately appointed as were

necessary for carrying on the business of recruiting, and in proportion as it advanced, others have been added. We have reason to believe their success has been satisfactory, although such returns have not yet been received as enable me to present to you a statement of the numbers engaged.

I have not thought it necessary in the course of the last season to call for any general detachments of militia or volunteers under the law passed for that purpose. For the ensuing season, however, they will require to be in readiness should their services be wanted. Some small and special detachments have been necessary to maintain the laws of embargo on that portion of our northern frontier which offered peculiar facilities for evasion, but these were replaced as soon as it could be done by bodies of new recruits. By the aid of these, and of the armed vessels called into actual service in other quarters, the spirit of disobedience and abuse which manifested itself early, and with sensible effect while we were unprepared to meet it, has been considerably repressed.

Considering the extraordinary character of the times in which we live, our attention should unremittingly be fixed on the safety of our country. For a people who are free, and who mean to remain so, a well-organized and armed militia is their best security. It is, therefore, incumbent on us, at every meeting, to revise the condition of the militia, and to ask ourselves if it is prepared to repel a powerful enemy at every point of our territories exposed to invasion. Some of the States have paid a laudable attention to this object; but every degree of neglect is to be found among others. Congress alone have power to produce a uniform state of preparation in this great organ of defence; the interests which they so deeply feel in their own and their country's security will present this as among the most important objects of their deliberation.

Under the acts of March 11th and April 23d, respecting arms, the difficulty of procuring them from abroad, during the present situation and dispositions of Europe, induced us to direct our whole efforts to the means of internal supply. The public fac-

tories have, therefore, been enlarged, additional machineries erected, and in proportion as artificers can be found or formed, their effect, already more than doubled, may be increased so as to keep pace with the yearly increase of the militia. The annual sums appropriated by the latter act, have been directed to the encouragement of private factories of arms, and contracts have been entered into with individual undertakers to nearly the amount of the first year's appropriation.

The suspension of our foreign commerce, produced by the injustice of the belligerent powers, and the consequent losses and sacrifices of our citizens, are subjects of just concern. The situation into which we have thus been forced, has impelled us to apply a portion of our industry and capital to internal manufactures and improvements. The extent of this conversion is daily increasing, and little doubt remains that the establishments formed and forming will—under the auspices of cheaper materials and subsistence, the freedom of labor from taxation with us, and of protecting duties and prohibitions—become permanent. The commerce with the Indians, too, within our own boundaries, is likely to receive abundant aliment from the same internal source, and will secure to them peace and the progress of civilization, undisturbed by practices hostile to both.

The accounts of the receipts and expenditures during the year ending on the 30th day of September last, being not yet made up, a correct statement will hereafter be transmitted from the Treasury. In the meantime, it is ascertained that the receipts have amounted to near eighteen millions of dollars, which, with the eight millions and a half in the treasury at the beginning of the year, have enabled us, after meeting the current demands and interest incurred, to pay two millions three hundred thousand dollars of the principal of our funded debt, and left us in the treasury, on that day, near fourteen millions of dollars. Of these, five millions three hundred and fifty thousand dollars will be necessary to pay what will be due on the first day of January next, which will complete the reimbursement of the eight per cent. stock. These payments, with those made in the six years

and a half preceding, will have extinguished thirty-three millions five hundred and eighty thousand dollars of the principal of the funded debt, being the whole which could be paid or purchased within the limits of the law and our contracts; and the amount of principal thus discharged will have liberated the revenue from about two millions of dollars of interest, and added that sum annually to the disposable surplus. The probable accumulation of the surpluses of revenue beyond what can be applied to the payment of the public debt, whenever the freedom and safety of our commerce shall be restored, merits the consideration of Congress. Shall it lie unproductive in the public vaults? Shall the revenue be reduced? Or shall it rather be appropriated to the improvements of roads, canals, rivers, education, and other great foundations of prosperity and union, under the powers which Congress may already possess, or such amendment of the constitution as may be approved by the States? While uncertain of the course of things, the time may be advantageously employed in obtaining the powers necessary for a system of improvement, should that be thought best.

Availing myself of this the last occasion which will occur of addressing the two houses of the legislature at their meeting, I cannot omit the expression of my sincere gratitude for the repeated proofs of confidence manifested to me by themselves and their predecessors since my call to the administration, and the many indulgences experienced at their hands. The same grateful acknowledgments are due to my fellow citizens generally, whose support has been my great encouragement under all embarrassments. In the transaction of their business I cannot have escaped error. It is incident to our imperfect nature. But I may say with truth, my errors have been of the understanding, not of intention; and that the advancement of their rights and interests has been the constant motive for every measure. On these considerations I solicit their indulgence. Looking forward with anxiety to their future destinies, I trust that, in their steady character unshaken by difficulties, in their love of liberty, obedience to law, and support of the public authorities, I see a

sure guaranty of the permanence of our republic; and retiring from the charge of their affairs, I carry with me the consolation of a firm persuasion that Heaven has in store for our beloved country long ages to come of prosperity and happiness.

SPECIAL MESSAGE.—December 30, 1808.

To the Senate and House of Representatives of the United States:—

I lay before the legislature a letter from Governor Claiborne, on the subject of a small tribe of Alabama Indians, on the western side of the Mississippi, consisting of about a dozen families. Like other erratic tribes in that country, it is understood that they have hitherto moved from place to place, according to their convenience, without appropriating to themselves exclusively any particular territory. But having now become habituated to some of the occupations of civilized life, they wish for a fixed residence. I suppose it will be the interest of the United States to encourage the wandering tribes of that country to reduce themselves to fixed habitations, whenever they are so disposed. The establishment of towns, and growing attachment to them, will furnish, in some degree, pledges of their peaceable and friendly conduct. The case of this particular tribe is now submitted to the consideration of Congress.

SPECIAL MESSAGE.—January 6, 1809.

To the Senate and House of Representatives of the United States:—

I now lay before Congress a statement of the works of defence which it has been thought necessary to provide in the first instance, for the security of our seaports, towns, and harbors, and of the progress toward their completion; their extent has been

adapted to the scale of the appropriation, and to the circumstances of the several places.

The works undertaken at New York are calculated to annoy and endanger any naval force which shall enter the harbor, and, still more, one which should attempt to lie before the city. To prevent altogether the entrance of large vessels, a line of blocks across the harbor has been contemplated, and would, as is believed, with the auxiliary means already provided, render that city safe against naval enterprise. The expense, as well as the importance of the work, renders it a subject proper for the special consideration of Congress.

At New Orleans, two separate systems of defence are necessary; the one for the river, the other for the lake, which, at present, can give no aid to one another. The canal now leading from the lake, if continued into the river, would enable the armed vessels in both stations to unite, and to meet in conjunction an attack from either side; half the aggregate force would then have the same effect as the whole; or the same force double the effect of what either can have. It would also enable the vessels stationed in the lake, when attacked by superior force, to retire to a safer position in the river. The same considerations of expense and importance renders this also a question for the special decision of Congress.

Circumstances, fellow citizens, which seriously threatened the peace of our country, have made it a duty to convene you at an earlier period than usual. The love of peace, so much cherished in the bosoms of our citizens, which has so long guided the proceedings of the public councils, and induced forbearance under so many wrongs, may not insure our continuance in the quiet *States* :—

PART III.

REPLIES TO PUBLIC ADDRESSES.

MESSRS. NEHEMIAH DODGE, EPHRAIM ROBBINS, AND STEPHEN S. NELSON, A COMMITTEE OF THE DANBURY BAPTIST ASSOCIATION, IN THE STATE OF CONNECTICUT.

January 1, 1802.

GENTLEMEN,—The affectionate sentiments of esteem and approbation which you are so good as to express towards me, on behalf of the Danbury Baptist Association, give me the highest satisfaction. My duties dictate a faithful and zealous pursuit of the interests of my constituents, and in proportion as they are persuaded of my fidelity to those duties, the discharge of them becomes more and more pleasing.

Believing with you that religion is a matter which lies solely between man and his God, that he owes account to none other for his faith or his worship, that the legislative powers of government reach actions only, and not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should "make no law respecting an establishment of religion, or prohibiting the free exercise thereof," thus building a wall of separation between church and State. Adhering to this expression of the supreme will of the nation in behalf of the rights of conscience, I shall see with sincere satisfaction the progress of those sentiments which tend to restore to man all his natural rights, convinced he has no natural right in opposition to his social duties.

I reciprocate your kind prayers for the protection and blessing of the common Father and Creator of man, and tender you for yourselves and your religious association, assurances of my high respect and esteem.

TO WILLIAM JUDD, ESQUIRE, CHAIRMAN.

WASHINGTON, November 15, 1802.

Expressions of confidence from the respectable description of my fellow citizens, in whose name you have been pleased to address me, are received with that cordial satisfaction which kindred principles and sentiments naturally inspire.

The proceedings which they approve were sincerely intended for the general good; and if, as we hope, they should in event produce it, they will be indebted for it to the wisdom of our legislative councils, and of those distinguished fellow laborers whom the laws have permitted me to associate in the general administration.

Exercising that discretion which the constitution has confided to me in the choice of public agents, I have been sensible, on the one hand, of the justice done to those who have been systematically excluded from the service of their country, and attentive, on the other, to restore justice in such a way as might least affect the sympathies and the tranquillity of the public mind. Deaths, resignations, delinquencies, malignant and active opposition to the order of things established by the will of the nation, will, it is believed, within a moderate space of time, make room for a just participation in the management of the public affairs; and that being once effected, future changes at the helm will be viewed with tranquillity by those in subordinate station.

Every wish of my heart will be completely gratified when that portion of my fellow citizens which has been misled as to the character of our measures and principles, shall, by their salutary effects, be corrected in their opinions, and joining with good will the great mass of their fellow citizens, consolidate an union which cannot be too much cherished.

I pray you, Sir, to accept for yourself, and for the general meeting of the Republicans of the State of Connecticut at New Haven, whose sentiments you have been so good as to convey to me, assurances of my high consideration and respect.

TO THE LEGISLATURE OF THE STATE OF TENNESSEE.

December 24, 1803.

Amidst the anxieties which are felt for the favorable issue of measures adopted for promoting the public good, it is a consolation to meet the approbation of those on whose behalf they are instituted. I shall certainly endeavor to merit a continuance of the good opinion which the legislature of Tennessee have been pleased to express in their address of the 8th November, by a zealous attention to the interests of my constituents; and shall count on a candid indulgence whenever untoward events may happen to disappoint well-founded expectations.

In availing our western brethren of those circumstances which occur for promoting their interests, we only perform that duty which we owe to every portion of the Union, under occurrences equally favorable; and, impressed with the inconveniences to which the citizens of Tennessee are subjected by a want of contiguity in the portions composing their State, I shall be ready to do for their relief, whatever the general legislature may authorize, and justice to our neighbors permit.

The acquisition of Louisiana, although more immediately beneficial to the western States, by securing for their produce a certain market, not subject to interruption by officers over whom we have no control, yet is also deeply interesting to the maritime portion of our country, inasmuch as by giving the exclusive navigation of the Mississippi, it avoids the burthens and sufferings of a war, which conflicting interests on that river would inevitably have produced at no distant period. It opens, too, a fertile region for the future establishments in the progress of that multiplication so rapidly taking place in all parts.

I have seen with great satisfaction the promptitude with which

the first portions of your militia repaired to the standard of their country. It was deemed best to provide a force equal to any event which might arise out of the transaction, and especially to the preservation of order, among our newly-associated brethren, in the first moments of their transition from one authority to another. I tender to the legislature of Tennessee assurances of my high respect and consideration.

TO THE TWO BRANCHES OF THE LEGISLATURE OF MASSACHUSETTS.

February 14, 1807.

It is with sincere pleasure that I receive, from the two branches of the legislature of Massachusetts, an address, expressive of their satisfaction with the administration of our government. The approbation of my constituents is truly the most valued reward for any services it has fallen to my lot to render them—their confidence and esteem, the greatest consolation of my life. The measures which you have been pleased particularly to note, I have believed to have been for the best interests of our country. But far from assuming their merit to myself, they belong first, to a wise and patriotic legislature, which has given them the form and sanction of law, and next, to my faithful and able fellow-laborers in the Executive administration.

The progression of sentiment in the great body of our fellow citizens of Massachusetts, and the increasing support of their opinion, I have seen with satisfaction, and was ever confident I should see; persuaded that an enlightened people, whenever they should view impartially the course we have pursued, could never wish that our measures should have been reversed; could never desire that the expenses of the government should have been increased, taxes multiplied, debt accumulated, wars undertaken, and the tomahawk and scalping knife left in the hands of our neighbors, rather than the hoe and plough. In whatever tended to strengthen the republican features of our constitution, we could not fail to expect from Massachusetts, the cradle of our revolutionary principles, an ultimate concurrence; and cultivating

the peace of nations, with justice and prudence, we yet were always confident that, whenever our rights would be to be vindicated against the aggression of foreign foes, or the machinations of internal conspirators, the people of Massachusetts, so prominent in the military achievements which placed our country in the right of self-government, would never be found wanting in their duty to the calls of their country, or the requisitions of their government.

During the term, which yet remains, of my continuance in the station assigned me, your confidence shall not be disappointed, so far as faithful endeavors for your service can merit it.

I feel with particular sensibility your kind expressions towards myself personally; and I pray that that Providence in whose hand are the nations of the earth, may continue towards ours his fostering care, and bestow on yourselves the blessings of His protection and favor.

TO THE PRESIDENT OF THE SENATE, AND SPEAKER OF THE HOUSE OF REPRESENTATIVES OF MASSACHUSETTS.

WASHINGTON, February 14, 1807.

GENTLEMEN,—I acknowledge, in the first moment it has been in my power, the receipt of your joint letter of January 26th, with the address of the two branches of legislature of Massachusetts, expressing their approbation of the proceedings of our government. This declaration cannot fail to give particular and general satisfaction to our fellow citizens, and to produce wholesome effects at home and abroad. The remarkable union of sentiment which pervaded nearly the whole of the States and territories composing our nation, was such, indeed, as to inspire a just confidence in the course we had to pursue. Yet something was sensibly wanting to fill up the measure of our happiness, while a member so important, so esteemed as Massachusetts, had not yet declared its participation in the common sentiment. That it is now done, will be a subject of mutual congratulation.

I am sensible that the terms in which you have been pleased

to make this communication, are not merely those of official duty. I feel how much I am indebted to the kind and friendly disposition they manifest; and I cherish them as proofs of an esteem highly valued.

Permit me, through you, to return to the two branches of the legislature the enclosed answer, and accept the assurances of my esteem and high consideration.

TO MESSRS. THOMAS, ELLICOT, AND OTHERS.

November 13, 1807.

Friends and Fellow Citizens,—I thank you for the address you have kindly presented me, on behalf of that portion of the Society of Friends of which you are the representatives, and I learn with satisfaction their approbation of the principles which have influenced the councils of the general government in their decisions on several important subjects confided to them.

The desire to preserve our country from the calamities and ravages of war, by cultivating a disposition, and pursuing a conduct, conciliatory and friendly to all nations, has been sincerely entertained and faithfully followed. It was dictated by the principles of humanity, the precepts of the gospel, and the general wish of our country, and it was not to be doubted that the Society of Friends, with whom it is a *religious* principle, would sanction it by their support.

The same philanthropic motives have directed the public endeavors to ameliorate the condition of the Indian natives, by introducing among them a knowledge of agriculture and some of the mechanic arts, by encouraging them to resort to these as more certain, and less laborious resources for subsistence than the chase; and by withholding from them the pernicious supplies of ardent spirits. They are our brethren, our neighbors; they may be valuable friends, and troublesome enemies. Both duty and interest then enjoin, that we should extend to them the blessings of civilized life, and prepare their minds for becoming useful members of the American family. In this important work I owe

to your society an acknowledgment that we have felt the benefits of their zealous co-operation, and approved its judicious direction towards producing among those people habits of industry, comfortable subsistence, and civilized usages, as preparatory to religious instruction and the cultivation of letters.

Whatever may have been the circumstances which influenced our forefathers to permit the introduction of personal bondage into any part of these States, and to participate in the wrongs committed on an unoffending quarter of the globe, we may rejoice that such circumstances, and such a sense of them, exist no longer. It is honorable to the nation at large that their legislature availed themselves of the first practicable moment for arresting the progress of this great moral and political error; and I sincerely pray with you, my friends, that all the members of the human family may, in the time prescribed by the Father of us all, find themselves securely established in the enjoyment of life, liberty, and happiness.

TO CAPTAIN JOHN THOMAS.

WASHINGTON, November 18, 1807.

SIR,—I received on the 14th instant your favor of August 31, and I beg you to assure my fellow citizens of the Baptist church of Newhope meeting-house, that I learn with great satisfaction their approbation of the principles which have guided the present administration of the government. To cherish and maintain the rights and liberties of our citizens, and to ward from them the burthens, the miseries, and the crimes of war, by a just and friendly conduct towards all nations, were among the most obvious and important duties of those to whom the management of their public interests have been confided; and happy shall we be if a conduct guided by these views on our part, shall secure to us a reciprocation of peace and justice from other nations.

Among the most inestimable of our blessings, also, is that you so justly particularize, of liberty to worship our Creator in the way we think most agreeable to his will; a liberty deemed in

other counties incompatible with good government, and yet proved by our experience to be its best support.

Your confidence in my dispositions to befriend every human right is highly grateful to me, and is rendered the more so by a consciousness that these dispositions have been sincerely entertained and pursued. I am thankful for the kindness expressed towards me personally, and pray you to return to the society in whose name you have addressed me, my best wishes for their happiness and prosperity; and to accept for yourself assurances of my great esteem and respect.

TO HIS EXCELLENCY GOVERNOR SMITH

WASHINGTON, December 1, 1807.

SIR,—The Secretary of State has communicated to me your letter to him of the 14th of November, covering the resolutions of the General Assembly of Vermont of the 4th of the same month.

The sentiments expressed by the General Assembly of Vermont on the late hostile attack on the Chesapeake by the Leopard ship-of-war, as well as on other violations of our maritime and territorial rights, are worthy of their known patriotism; and their readiness to rally around the constituted authorities of their country, and to support its rights with their lives and fortunes, is the more honorable to them as exposed by their position, in front of the contest. The issue of the present misunderstandings cannot now be foreseen; but the measures adopted for their settlement have been sincerely directed to maintain the rights, the honor, the peace of our country; and the approbation of them expressed by the General Assembly is to me a confirmation of their correctness.

The confidence they are pleased to declare in my personal care of the public interests, is highly gratifying to me, and gives a new claim to everything which zeal can effect for their service.

I beg leave to tender to the General Assembly of Vermont, and to yourself, the assurances of my high consideration and respect.

TO THE LEGISLATURE OF VERMONT.

December 10, 1807.

I received in due season the *address* of the Legislature of Vermont, bearing date the 5th of November 1806, in which, with their approbation of the general course of my administration, they were so good as to express their desire that I would consent to be proposed again, to the public voice, on the expiration of my present term of office. Entertaining, as I do, for the legislature of Vermont those sentiments of high respect which would have prompted an immediate answer, I was certain, nevertheless, they would approve a delay which had for its object to avoid a premature agitation of the public mind, on a subject so interesting as the election of a chief magistrate.

That I should lay down my charge at a proper period, is as much a duty as to have borne it faithfully. If some termination to the services of the chief magistrate be not fixed by the constitution, or supplied by practice, his office, nominally for years, will, in fact, become for life; and history shows how easily that degenerates into an inheritance. Believing that a representative government, responsible at short periods of election, is that which produces the greatest sum of happiness to mankind, I feel it a duty to do no act which shall essentially impair that principle; and I should unwillingly be the person who, disregarding the sound precedent set by an illustrious predecessor, should furnish the first example of prolongation beyond the second term of office.

Truth, also, requires me to add, that I am sensible of that decline which advancing years bring on; and feeling their physical, I ought not to doubt their mental effect. Happy if I am the first to perceive and to obey this admonition of nature, and to solicit a retreat from cares too great for the wearied faculties of age.

For the approbation which the legislature of Vermont has been pleased to express of the principles and measures pursued in the management of their affairs, I am sincerely thankful; and should I be so fortunate as to carry into retirement the equal approba-

tion and good will of my fellow citizens generally, it will be the comfort of my future days, and will close a service of forty years with the only reward it ever wished.

"Addresses approving the general course of his administration, were also received from Georgia, December 6th, 1806; from Rhode Island, February 27th, 1807; from New York, March 13th, 1807; from Pennsylvania, March 13th, 1807; and from Maryland, January 3d, 1807; to all which answers like that sent to Vermont, were returned."—*Ed.*

TO THE REPRESENTATIVES OF THE PEOPLE OF NEW JERSEY IN THEIR LEGISLATURE.

December 10, 1807.

The sentiments, fellow citizens, which you are pleased to express in your address of the 4th inst., of attachment and esteem for the general government, and of confidence and approbation of those who direct its councils, cannot but be pleasing to the friends of union generally, and give a new claim on all those who direct the public affairs, for everything which zeal can effect for the good of their country.

It is indeed to be deplored that distant as we are from the storms and convulsions which agitate the European world, the pursuit of an honest neutrality, beyond the reach of reproach, has been insufficient to secure to us the certain enjoyment of peace with those whose interests as well as ours would be promoted by it. What will be the issue of present misunderstandings cannot as yet be foreseen; but the measures adopted for their settlement have been sincerely directed to maintain the rights, the honor and the peace of our country. Should they fail, the ardor of our citizens to obey the summons of their country, and the offer which you attest, of their lives and fortunes in its support, are worthy of their patriotism, and are pledges of our safety.

The suppression of the late conspiracy by the hand of the people, uplifted to destroy it whenever it reared its head, mani-

fests their fitness for self-government, and the power of a nation, of which every individual feels that his own will is a part of the public authority.

The effect of the public contributions in reducing the national debt, and liberating our resources from the canker of interest, has been so far salutary, and encourages us to continue in the same course; or, if necessarily interrupted, to resume it as soon as practicable.

I perceive with sincere pleasure that my conduct in the chief magistracy has so far met your approbation, that my continuance in that office, after its present term, would be acceptable to you. But that I should lay down my charge at a proper period is as much a duty as to have borne it faithfully. If some termination to the services of the chief magistrate be not fixed by the constitution, or supplied by practice, his office, nominally for years, will, in fact, become for life, and history shows how easily that degenerates into an inheritance. Believing that a representative government, responsible at short periods of election, is that which produces the greatest sum of happiness to mankind, I feel it a duty to do no act which shall essentially impair that principle; and I should unwillingly be the person who, disregarding the sound precedent set by an illustrious predecessor, should furnish the first example of prolongation beyond the second term of office.

Truth also obliges me to add, that I am sensible of that decline which advancing years bring on, and feeling their physical, I ought not to doubt their mental effect. Happy if I am the first to perceive and to obey this admonition of nature, and to solicit a retreat from cares too great for the wearied faculties of age.

Declining a re-election on grounds which cannot but be approved, I am sincerely thankful for the approbation which the Legislature of New Jersey are pleased to manifest of the principles and measures pursued in the management of their affairs; and should I be so fortunate as to carry into retirement the equal approbation and good will of my fellow citizens generally, it will be the comfort of my future days, and will close a service of forty years with the only reward it ever wished.

TO THE TAMMANY SOCIETY OF THE CITY OF WASHINGTON.

December 14, 1807.

The appearances for some time past, threatening our peace, fellow citizens, have justly excited a general anxiety; and I have been happy to receive from every quarter of the Union the most satisfactory assurances of fidelity to our country, and of devotion to the support of its rights. Your concurrence in these sentiments, expressed in the address you have been pleased to present me, is a proof of your patriotism, and of that firm spirit which constitutes the ultimate appeal of nations. What will be the issue of present misunderstandings, is, as yet, unknown. But, willing ourselves to do justice to others, we ought to expect it from them. If any among us view erroneously the rights which late events have brought into question, let us hope that they will be corrected by the further investigation of reason; but, at all events, that they will acquiesce in what their country shall authoritatively decide, and arrange themselves faithfully under the banners of the law.

Your approbation of the measures which have been pursued, is a pleasing confirmation of their correctness; and, with particular thankfulness for the kind expressions of your address towards myself personally, I reciprocate sincere wishes for your welfare.

TO MESSRS. ABNER WATKINS AND BERNARD TODD.

December 21st, 1807.

I have duly received, fellow citizens, the address of October 21st, which you have been so kind as to forward me on the part of the society of Baptists, of the Appomatox Association, and it is with great satisfaction when I learn from my constituents that the measures pursued in the administration of their affairs, during the time I have occupied the presidential chair, have met their approbation. Of the wisdom of these measures, it belongs to others to judge; that they have always been dictated by a desire to do what should be most for the public good, I may con-

scientiously affirm. Believing that a definite period of retiring from this station will tend materially to secure our elective form of government; and sensible, too, of that decline which advancing years bring on, I have felt it a duty to withdraw at the close of my present term of office; and to strengthen by practice a principle which I deem salutary. That others may be found whose talents and integrity render them proper deposits of the public liberty and interests, and who have made themselves known by their eminent services, we can all affirm, of our personal knowledge. To us it will belong, fellow citizens, when their country shall have called them to its helm, to give them our support while there, to facilitate their honest efforts for the public good, even where other measures might seem to us more direct, to strengthen the arm of our country by union under them, and to reserve ourselves for judging them at the constitutional period of election.

I pray you to tender to your society, of which you are a committee, my thanks for the indulgence with which they have viewed my conduct, with the assurance of my high respect, and to accept yourselves my friendly and respectful salutations.

TO THE GENERAL ASSEMBLY OF NORTH CAROLINA.

January 10, 1808.

The wrongs our country has suffered, fellow citizens, by violations of those moral rules which the Author of our nature has implanted in man as the law of his nature, to govern him in his associated, as well as individual character, have been such as justly to excite the sensibilities you express, and a deep abhorrence at indications threatening a substitution of power for right in the intercourse between nations. Not less worthy of your indignation have been the machinations of parricides who have endeavored to bring into danger the union of these States, and to subvert, for the purposes of inordinate ambition, a government founded in the will of its citizens, and directed to no object but their happiness.

I learn, with the liveliest sentiments of gratitude and respect, your approbation of my conduct, in the various charges which my country has been pleased to confide to me at different times; and especially that the administration of our public affairs, since my accession to the chief magistracy, has been so far satisfactory, that my continuance in that office after its present term, would be acceptable to you. But, that I should lay down my charge at a proper period, is as much a duty as to have borne it faithfully. If some termination to the services of the chief magistrate be not fixed by the constitution, or supplied by practice, his office, nominally for years, will in fact become for life; and history shows how easily that degenerates into an inheritance. Believing that a representative government, responsible at short periods of election, is that which produces the greatest sum of happiness to mankind, I feel it a duty to do no act which shall essentially impair that principle; and I should unwillingly be the person who, disregarding the sound precedent set by an illustrious predecessor, should furnish the first example of prolongation beyond the second term of office.

Truth also obliges me to add, that I am sensible of that decline which advancing years bring on; and feeling their physical, I ought not to doubt their mental effect. Happy if I am the first to perceive and obey this admonition of nature, and to solicit a retreat from cares too great for the wearied faculties of age.

Declining a re-election on grounds which cannot but be approved, it will be the great comfort of my future days, and the satisfactory reward of a service of forty years, to carry into retirement such testimonies as you have been pleased to give, of the approbation and good will of my fellow citizens generally. And I supplicate the Being in whose hands we all are, to preserve our country in freedom and independence, and to bestow on yourselves the blessings of his favor.

TO THE SOCIETY OF TAMMANY, OR COLUMBIAN ORDER, NO. 1, OF THE CITY OF NEW YORK.

February 29, 1808.

I have received your address, fellow citizens, and, thankful for the expressions so personally gratifying to myself, I contemplate with high satisfaction the ardent spirit it breathes of love to our country, and of devotion to its liberty and independence. The crisis in which it is placed, cannot but be unwelcome to those who love peace, yet spurn at a tame submission to wrong. So fortunately remote from the theatre of European contests, and carefully avoiding to implicate ourselves in them, we had a right to hope for an exemption from the calamities which have afflicted the contending nations, and to be permitted unoffendingly to pursue paths of industry and peace.

But the ocean, which, like the air, is the common birth-right of mankind, is arbitrarily wrested from us, and maxims consecrated by time, by usage, and by an universal sense of right, are trampled on by superior force. To give time for this demoralizing tempest to pass over, one measure only remained which might cover our beloved country from its overwhelming fury: an appeal to the deliberate understanding of our fellow citizens in a cessation of all intercourse with the belligerent nations, until it can be resumed under the protection of a returning sense of the moral obligations which constitute a law for nations as well as individuals. There can be no question, in a mind truly American, whether it is best to send our citizens and property into certain captivity, and then wage war for their recovery, or to keep them at home, and to turn seriously to that policy which plants the manufacturer and the husbandman side by side, and establishes at the door of every one that exchange of mutual labors and comforts, which we have hitherto sought in distant regions, and under perpetual risk of broils with them. Between these alternatives your address has soundly decided, and I doubt not your aid, and that of every real and faithful citizen, towards carrying into effect the measures of your country, and enforcing

the sacred principle, that in opposing foreign wrong there must be but one mind.

I receive with sensibility your kind prayers for my future happiness, and I supplicate a protecting providence to watch over your own and our country's freedom and welfare.

TO THE DELEGATES OF THE DEMOCRATIC REPUBLICANS OF THE CITY OF PHILADELPHIA IN GENERAL WARD COMMITTEE ASSEMBLED.

May 25. 1808.

The epoch, fellow citizens, into which our lot has fallen, has indeed been fruitful of events, which require vigilance, and embarrass deliberation. That during such a period of difficulty, and amidst the perils surrounding us, the public measures which have been pursued should meet your approbation, is a source of great satisfaction. It was not expected in this age, that nations so honorably distinguished by their advances in science and civilization, would suddenly cast away the esteem they had merited from the world, and, revolting from the empire of morality, assume a character in history, which all the tears of their posterity will never wash from its pages. But during this delirium of the warring powers, the ocean having become a field of lawless violence, a suspension of our navigation for a time was equally necessary to avoid contest, or enter it with advantage. This measure will, indeed, produce some temporary inconvenience; but promises lasting good by promoting among ourselves the establishment of manufactures hitherto sought abroad, at the risk of collisions no longer regulated by the laws of reason or morality.

It is to be lamented that any of our citizens, not thinking with the mass of the nation as to the principles of our government, or of its administration, and seeing all its proceedings with a prejudiced eye, should so misconceive and misrepresent our situation as to encourage aggressions from foreign nations. Our expectation is, that their distempered views will be understood by others as they are by ourselves; but should wars be the consequence of these delusions, and the errors of our dissatisfied citizens find

atonement only in the blood of their sounder brethren, we must meet it as an evil necessarily flowing from that liberty of speaking and writing which guards our other liberties; and I have entire confidence in the assurances that your ardor will be animated, in the conflicts brought on, by considerations of the necessity, honor, and justice of our cause.

I sincerely thank you, fellow citizens, for the concern you so kindly express for my future happiness. It is a high and abundant reward for endeavors to be useful; and I supplicate the care of Providence over the well-being of yourselves and our beloved country.

TO THE LEGISLATURE, COUNCIL, AND HOUSE OF REPRESENTATIVES OF THE TERRITORY OF ORLEANS.

WASHINGTON, June 18, 1808.

I received, fellow citizens, with a just sensibility, the expressions of esteem and approbation, communicated in your kind address of the 29th of March, and am thankful for them. The motives which have led to my retirement from office were dictated by a sense of duty, and will, I trust, be approved by my fellow citizens generally.

It is, indeed, a source of real concern that an impartial neutrality scrupulously observed towards the belligerent nations of Europe, has not been sufficient to protect us against encroachments on our rights; and, although deprecating war, should no alternative be presented us but disgraceful submission to unlawful pretensions, I have entire confidence in your assurances that you will cheerfully submit to whatever sacrifices and privations may be necessary for vindicating the rights, the honor, and independence of our nation.

Far from a disposition to avail ourselves of the peculiar situation of any belligerent nation to ask concessions incompatible with their rights, with justice, or reciprocity, we have never proposed to any the sacrifice of a single right; and in consideration of existing circumstances, we have ever been willing, where our duty to other nations permitted us, to relax for a time, and in

some cases, that strictness of right which the laws of nature, the acknowledgments of the civilized world, and the equality and independence of nations entitle us to. Should, therefore, excessive and continued injury compel at length a resort to the means of self-redress, we are strong in the consciousness that no wrong committed on our part, no precipitancy in repelling the wrongs committed by others, no want of moderation in our exactions of voluntary justice, but undeniable aggressions on us, and the avowed purpose of continuing them, will have produced a recurrence so little consonant with our principles or inclinations.

To carry with me into retirement the approbation and esteem of my fellow citizens, will, indeed, be the highest reward they can confer on me, and certainly the only one I have ever desired. I invoke the favor of heaven, fellow citizens, towards yourselves and our beloved country.

TO THE LEGISLATURE OF NEW HAMPSHIRE.

August 2, 1808.

In the review, fellow citizens, which, in your address of the 14th of June, you have taken of the measures pursued since I have been charged with their direction, I read with great satisfaction and thankfulness, the approbation you have bestowed on them; and I feel it an ample reward for any services I may have been able to render.

The present moment is certainly eventful, and one which peculiarly requires that the bond of confederation connecting us as a nation should receive all the strength which unanimity between the national councils and the State legislatures can give it.

The depredations committed on our vessels and property on the high seas, the violences to the persons of our citizens employed on that element, had long been the subject of remonstrance and complaint, when, instead of reparation, new declarations of wrong are issued, subjecting our navigation to general plunder. In this state of things our first duty was to withdraw our sea-faring citizens and property from abroad, and to keep a

home resources so valuable at all times, and so essential, if resort must ultimately be had to force.

It gave us time, too, to make a last appeal to the reason and reputation of nations. In the meanwhile I see with satisfaction that this measure of self-denial is approved and supported by the great body of our real citizens; that they meet with cheerfulness the temporary privations it occasions, and are preparing with spirit to provide for themselves those comforts and conveniences of life, for which it would be unwise evermore to recur to distant countries. How long this course may be preferable to a more serious appeal, must depend for decision on the wisdom of the legislature; unless, indeed, a return to established principles should remove the existing obstacles to a peaceable intercourse with foreign nations. In every event, fellow citizens, my confidence is entire that your resolution to maintain our national independence and sovereignty will be as firm as it has been forbearing; and looking back on our history, I am assured by the past, that its future pages will present nothing unworthy of the former.

I am happy that you approve of the motives of my retirement. I shall carry into it ardent prayers for the welfare of my country, and the sincerest wishes for that of yourselves personally.

TO HIS EXCELLENCY GOVERNOR LANGDON.

August 2, 1808.

I received in due time your favor of June 24th, covering the address of the House of Representatives and Senate of New Hampshire, and I ask leave, through the same channel, to return the enclosed answer, to be communicated to them in whatever way you think most acceptable. Highly gratified by this approbation of the legislature of your State, as it respects myself personally, the moment at which it is expressed gives it peculiar value as a public document. It is the testimony of a respectable legislature in favor of a measure submitting our fellow citizens to some present sufferings to preserve them from future and

greater, and cannot fail to strengthen the disposition to maintain it which I am happy to perceive is so general. I tender you my affectionate salutations, and with every wish for your health and happiness, the assurance of my high respect and consideration.

TO HIS EXCELLENCY GOVERNOR LANGDON. (PRIVATE.)

MONTICELLO, August 2, 1808.

MY DEAR SIR,—The enclosed are formal, and for the public, but in sending them to you I cannot omit the occasion of indulging my friendship in a more familiar way, and of recalling myself to your recollection. How much have I wished to have had you still with us through the years of my employment at Washington. I have seen with great pleasure the moderation and circumspection with which you have been kind enough to act under my letter of May 6th, and I have been highly gratified with the late general expressions of public sentiment in favor of a measure which alone could have saved us from immediate war, and give time to call home eighty millions of property, twenty or thirty thousand seamen, and two thousand vessels. These are now nearly at home, and furnish a great capital, much of which will go into manufactures and seamen to man a fleet of privateers, whenever our citizens shall prefer war to a longer continuance of the embargo. Perhaps, however, the whale of the ocean may be tired of the solitude it has made on that element, and return to honest principles, and his brother robber on the land may see that, as to us, the grapes are sour. I think one war enough for the life of one man; and you and I have gone through one which at least may lessen our impatience to embark in another. Still, if it becomes necessary, we must meet it like men, old men indeed, but yet good for something. But whether in peace or war, may you have as many years of life as you desire, with health and prosperity to make them happy years. I salute you with constant affection and great esteem and respect.

TO THE HONORABLE JOSEPH ALSTON, SPEAKER OF THE HOUSE OF REPRESENTATIVES OF SOUTH CAROLINA.

MONTICELLO, August 4, 1808.

SIR,—I have duly received your letter of July 6th, covering the resolutions of the legislature of South Carolina of June 29th, and I see in those resolutions a new manifestation of the national spirit of which South Carolina has given so many proofs. It is the more exemplary, as it is certain that no State sacrifices more by the operation of a measure which, whether to avoid war, or to prepare for it, has been deemed equally necessary. The unanimity too of these resolutions, does peculiar honor to those individuals, who differing from the mass of their fellow citizens in their opinions of government, yet forget all differences when the rights of their country are in question; who when it is assailed by foreign wrong, and menaced with the evils of war, instead of encouraging enemies by forebodings of weakness and division, present to them one common and undivided front. Persuaded that the sentiments expressed in these resolutions are a true specimen of those entertained by the great mass of our fellow citizens, we may regret the evils which a contrary opinion in others may produce, but we cannot fear the result of any trial they may put us to.

I receive with particular gratification assurances of approbation from the legislature of South Carolina, and will not cease in my endeavors to merit a continuance of it. I pray you to accept my salutations and assurances of great respect and consideration.

TO THE INHABITANTS OF THE TOWN OF BOSTON, NEWBURYPORT AND PROVIDENCE, IN LEGAL TOWN MEETING ASSEMBLED.

AUGUST, 26, 1808.

Your representation and request were received on the 22d inst., and have been considered with the attention due to every expression of the sentiments and feelings of so respectable a body of my fellow citizens. No person has seen, with more concern

than myself, the inconveniences brought on our country in general by the circumstances of the times in which we happen to live; times to which the history of nations presents no parallel. For years we have been looking as spectators on our brethren of Europe, afflicted by all those evils which necessarily follow an abandonment of the moral rules which bind men and nations together. Connected with them in friendship and commerce, we have happily so far kept aloof from their calamitous conflicts, by a steady observance of justice towards all, by much forbearance and multiplied sacrifices. At length, however, all regard to the rights of others having been thrown aside, the belligerent powers have beset the highway of commercial intercourse with edicts which, taken together, expose our commerce and mariners, under almost every destination, a prey to their fleets and armies. Each party, indeed, would admit our commerce with themselves, with the view of associating us in their war against the other. But we have wished war with neither. Under these circumstances were passed the laws of which you complain, by those delegated to exercise the powers of legislation for you, with every sympathy of a common interest in exercising them faithfully. In reviewing these measures, therefore, we should advert to the difficulties out of which a choice was of necessity to be made. To have submitted our rightful commerce to prohibitions and tributary exactions from others, would have been to surrender our independence. To resist them by arms was war, without consulting the state of things or the choice of the nation. The alternative preferred by the legislature of suspending a commerce placed under such unexampled difficulties, besides saving to our citizens their property, and our mariners to their country, has the peculiar advantage of giving time to the belligerent nations to revise a conduct as contrary to their interests as it is to our rights.

"In the event of such peace, or suspension of hostilities between the belligerent powers of Europe, or of such change in their measures affecting neutral commerce, as may render that of the United States sufficiently safe, in the judgment of the President," he is authorized to suspend the embargo. But no

peace or suspension of hostilities, no change of measures affecting neutral commerce, is known to have taken place. The orders of England, and the decrees of France and Spain, existing at the date of these laws, are still unrepealed, as far as we know. In Spain, indeed, a contest for the government appears to have arisen; but of its course or prospects we have no information on which prudence would undertake a hasty change in our policy, even were the authority of the Executive competent to such a decision.

You desire that, in this defect of power, Congress may be specially convened. It is unnecessary to examine the evidence or the character of the facts which are supposed to dictate such a call; because you will be sensible, on an attention to dates, that the legal period of their meeting is as early as, in this extensive country, they could be fully convened by a special call.

I should, with great willingness, have executed the wishes of the inhabitants of the town of Boston, Newburyport, and Providence, had peace, or a repeal of the obnoxious edicts, or other charges, produced the case in which alone the laws have given me that authority; and so many motives of justice and interest lead to such changes, that we ought continually to expect them. But while these edicts remain, the legislature alone can prescribe the course to be pursued.

TO A PORTION OF THE CITIZENS OF BOSTON.

Sir,—I have duly received the address of that portion of the citizens of [Boston] who have declared their approbation of the present suspension of our commerce, and their dissent from the representation of those of the same place, who wished its removal. A division of sentiment was not unexpected. On no question can a perfect unanimity be hoped, or certainly it would have been on that between war and embargo, the only alternatives presented to our choice. For the general capture of our vessels would have been war on one side, which reason and interest would repel by war and reprisal on our part.

Of the several interests composing those of the United States, that of manufactures would of course prefer to war a state of non-intercourse, so favorable to their rapid growth and prosperity. Agriculture, although sensibly feeling the loss of market for its produce, would find many aggravations in a state of war. Commerce and navigation, or that portion which is foreign, in the inactivity to which they are reduced by the present state of things, certainly experience their full share in the general inconvenience; but whether war would to them be a preferable alternative, is a question their patriotism would never hastily propose. It is to be regretted, however, that overlooking the real sources of their sufferings, the British and French edicts, which constitute the actual blockade of our foreign commerce and navigation, they have, with too little reflection, imputed them to laws which have saved them from greater, and have preserved for our own use our vessels, property and seamen, instead of adding them to the strength of those with whom we might eventually have to contend.

The embargo, giving time to the belligerent powers to revise their unjust proceedings, and to listen to the dictates of justice, of interest and reputation, which equally urge the correction of their wrongs, has availed our country of the only honorable expedient for avoiding war; and should a repeal of these edicts supersede the cause for it, our commercial brethren will become sensible that it has consulted their interests, however against their own will. It will be unfortunate for their country if, in the meantime, these their expressions of impatience should have the effect of prolonging the very sufferings which have produced them, by exciting a fallacious hope that we may, under any pressure, relinquish our equal right of navigating the ocean, go to such ports only as others may prescribe, and there pay the tributary exactions they may impose; an abandonment of national independence and of essential rights, revolting to every manly sentiment. While these edicts are in force, no American can ever consent to a return of peaceable intercourse with those who maintain them.

I am happy, in the approach of the period when the feelings

and the wisdom of the nation will be collected in their representatives assembled together. To them are committed our rights, to them our wrongs are known, and they will pronounce the remedy they call for; and I hear with pleasure from all, as well those who approve, as who disapprove of the present measures, assurances of an implicit acquiescence in their enunciation of the general will.

I beg leave through you to communicate this answer to the address on which your signature held the first place, and to add the assurances of my respect.

TO THE MEMBERS OF THE BALTIMORE BAPTIST ASSOCIATION.

October 17, 1808.

I receive with great pleasure the friendly address of the Baltimore Baptist Association, and am sensible how much I am indebted to the kind dispositions which dictated it.

In our early struggles for liberty, religious freedom could not fail to become a primary object. All men felt the right, and a just animation to obtain it was exhibited by all. I was one only among the many who befriended its establishment, and am entitled but in common with others to a portion of that approbation which follows the fulfilment of a duty.

Excited by wrongs to reject a foreign government which directed our concerns according to its own interests, and not to ours, the principles which justified us were obvious to all understandings, they were imprinted in the breast of every human being; and Providence ever pleases to direct the issue of our contest in favor of that side where justice was. Since this happy separation, our nation has wisely avoided entangling itself in the system of European interests, has taken no side between its rival powers, attached itself to none of its ever-changing confederacies. Their peace is desirable; and you do me justice in saying that to preserve and secure this, has been the constant aim of my administration. The difficulties which involve it, however, are now at their ultimate term, and what will be their issue, time

alone will disclose. But be it what it may, a recollection of our former vassalage in religion and civil government, will unite the zeal of every heart, and the energy of every hand, to preserve that independence in both which, under the favor of heaven, a disinterested devotion to the public cause first achieved, and a disinterested sacrifice of private interests will now maintain.

I am happy in your approbation of my reasons for determining to retire from a station, in which the favor of my fellow citizens has so long continued and supported me: I return your kind prayers with supplications to the same almighty Being for your future welfare and that of our beloved country.

TO THE MEMBERS OF THE KETOCTON BAPTIST ASSOCIATION.

October 18, 1808.

I received with great pleasure the affectionate address of the Ketocton Baptist Association, and am sensible how much I am indebted to the kind dispositions which dictated it.

In our early struggles for liberty, religious freedom could not fail to become a primary object. All men felt the right, and a just animation to obtain it was excited in all. And although your favor selected me as the organ of your petition to abolish the religious denomination of a privileged church, yet I was but one of the many who befriended its object, and am entitled but in common with them to a portion of that approbation which follows the fulfilment of a duty.

The views you express of the conduct of the belligerent powers are as correct as they are afflicting to the lovers of justice and humanity. Those moral principles and conventional usages which have heretofore been the bond of civilized nations, which have so often preserved their peace by furnishing common rules for the measure of their rights, have now given way to force, the law of Barbarians, and the nineteenth century dawns with the Vandalism of the fifth. Nothing has been spared on our part to preserve the peace of our country, during this distempered state of the world. But the difficulties which involve it are now at their

ultimate term, and what will be their issue, time alone will disclose. But be that what it may, a recollection of our former vassalage in religion and civil government will unite the zeal of every heart, and the energy of every hand, to preserve that independence in both, which, under the favor of heaven, a disinterested devotion to the public cause first achieved, and a disinterested sacrifice of private interests will now maintain.

I am happy in your approbation of my reasons for determining to retire from a station in which the favor of my fellow citizens has so long continued and supported me; and I return your kind prayers by supplications to the same Almighty being for your future welfare, and that of our beloved country.

TO THE GENERAL MEETING OF CORRESPONDENCE OF THE SIX BAPTIST ASSOCIATIONS REPRESENTED AT CHESTERFIELD, VIRGINIA.

November 21, 1808.

Thank you, fellow citizens, for your affectionate address, and I receive with satisfaction your approbation of my motives for retirement. In reviewing the history of the times through which we have past, no portion of it gives greater satisfaction, on reflection, than that which presents the efforts of the friends of religious freedom, and the success with which they were crowned. We have solved by fair experiment, the great and interesting question whether freedom of religion is compatible with order in government, and obedience to the laws. And we have experienced the quiet as well as the comfort which results from leaving every one to profess freely and openly those principles of religion which are the inductions of his own reason, and the serious convictions of his own inquiries.

It is a source of great contentment to me to learn that the measures which have been pursued in the administration of your affairs have met your approbation. Too often we have had but a choice among difficulties; and this situation characterizes remarkably the present moment. But, fellow citizens, if we are faithful to our country, if we acquiesce, with good will, in the

decisions of the majority, and the nation moves in mass in the same direction, although it may not be that which every individual thinks best, we have nothing to fear from any quarter.

I thank you sincerely for your kind wishes for my welfare, and with equal sincerity implore the favor of a protecting Providence for yourselves.

TO TABER FITCH, ESQ., CHAIRMAN.

WASHINGTON, November 21, 1808.

SIR,—I have received with great pleasure the address of the republicans of the State of Connecticut, and am particularly sensible of the kindness with which they have viewed my conduct in the direction of their affairs. Having myself highly approved the example of an illustrious predecessor, in voluntarily retiring from a trust, which, if too long continued in the same hands, might become a subject of reasonable uneasiness and apprehension, I could not mistake my own duty when placed in a similar situation.

Our experience so far, has satisfactorily manifested the competence of a republican government to maintain and promote the best interests of its citizens; and every future year, I doubt not, will contribute to settle a question on which reason, and a knowledge of the character and circumstances of our fellow citizens, could never admit a doubt, and much less condemn them as fit subjects to be consigned to the dominion of wealth and force. Although under the pressure of serious evils at this moment, the governments of the other hemisphere cannot boast a more favorable situation. We certainly do not wish to exchange our difficulties for the sanguinary distresses of our fellow men beyond the water. In a state of the world unparalleled in times past, and never again to be expected, according to human probabilities, no form of government has, so far, better shielded its citizens from the prevailing afflictions. By withdrawing awhile from the ocean we have suffered some loss; but we have gathered home our immense capital. Exposed to foreign depredation, we

have saved our seamen from the jails of Europe, and gained time to prepare for the defence of our country. The questions of submission, of war, or embargo, are now before our country as unembarrassed as at first. Submission and tribute, if that be our choice, will be no baser now than at the date of the embargo. But if, as I trust, that idea be spurned, we may now decide on the other alternatives of war and embargo, with the advantage of possessing all the means which have been rescued from the grasp of capture. These advantages certainly justify the approbation of the embargo declared in your address, and I have no doubt will ensure that of every candid citizen, who will correctly trace the consequences of any other course.

I thank you for the kind concern you are pleased to express for my future happiness, and offer my sincere prayers for your welfare and prosperity.

TO THE YOUNG REPUBLICANS OF PITTSBURG AND ITS VICINITIES.

December 2, 1808.

The sentiments which you express in your address of October 27th, of attachment to the rights of your country, of your determination to support them with your lives and fortunes, and of disregard of the inconveniences which must be encountered in resisting insult and aggression, are honorable to yourselves, and encouraging to your country. They are particularly solacing to those who, having labored faithfully in establishing the right of self-government, see in the rising generation, into whose hands it is passing, that purity of principle, and energy of character, which will protect and preserve it through their day, and deliver it over to their sons as they receive it from their fathers. The measure of a temporary suspension of commerce was adopted to cover us from greater evils. It has rescued from capture an important capital, and our seamen from the jails of Europe. It has given time to prepare for defence, and has shown to the aggressors of Europe that evil, as well as good actions, recoil on the doers. If these evils have involved our inoffending neigh-

bors also, towards whom we have not a sentiment but of friendship and useful intercourse, it results from that state of violence by which the interests of the American hemisphere are directed to the objects of Europe. Endowed by nature with a system of interests and connections of its own, it is drawn from these by the unnatural bonds which enchain its different parts to the conflicting interests and fortunes of another world, and render its inhabitants strangers and enemies, to their neighbors and mutual friends.

Believing that the happiness of mankind is best promoted by the useful pursuits of peace, that on these alone a stable prosperity can be founded, that the evils of war are great in their endurance, and have a long reckoning for ages to come, I have used my best endeavors to keep our country uncommitted in the troubles which afflict Europe, and which assail us on every side. Whether this can be done longer, is to be doubted. I am happy that so far my conduct meets the approbation of my fellow citizens. It is the highest reward I can receive for my endeavors to serve them; and I am particularly thankful to yourselves for the kind expressions of esteem and confidence, and tender my best wishes for your personal happiness and prosperity.

TO THE SOCIETY OF THE METHODIST EPISCOPAL CHURCH AT PITTSBURG, PENNSYLVANIA.

WASHINGTON, December 9, 1808.

I am much indebted, fellow citizens, for your friendly address of November 20th, and gratified by its expressions of personal regard to myself. Having ever been an advocate for the freedom of religious opinion and exercise, from no person, certainly, was an abridgment of these sacred rights to be apprehended less than from myself.

In justice, too, to our excellent constitution, it ought to be observed, that it has not placed our religious rights under the power of any public functionary. The power, therefore, was wanting, not less than the will, to injure these rights.

The times in which we live, fellow citizens, are indeed times of trouble, such as no age has yet seen, or perhaps will ever see again. To avoid their calamitous influence, has been our duty and endeavor, and to effect it, great sacrifices of our citizens have been necessary. They have seen that these necessities were forced by the wrongs of others, and they have met them with the zeal which the crisis called for. What course we are finally to take, cannot yet be foreseen; but reading, reflecting, and examining for yourselves, you will find your public functionaries, according to the best of their judgments, directing your affairs, without passion or partiality, with a single view to your rights and best interests. And it is the approbation of those who so read, reflect, and examine for themselves, which is so truly consoling to the persons charged with the guidance of your affairs. For that portion of your approbation which you are pleased to bestow on my conduct, I am truly thankful, and I offer my sincere prayers for your welfare, and a happy issue of our country from the difficulties impending over it.

TO THE ELECTORS OF THE COUNTY OF ONTARIO, IN THE STATE OF NEW YORK.

December 13, 1808.

The wrongs which we have sustained, fellow citizens, from the belligerent powers of Europe, and of which you have taken so just a view in your address, received by me on the 27th of the last month, could not fail to excite in the bosoms of freemen the sentiments of high indignation expressed by you. The love of peace had long induced us to bear with these aggressions, and the hope of a return to a spirit of justice had encouraged us to persevere in endeavors at amicable adjustment. Their outrages, however, have at length forced us to suspend all intercourse with them, to gather home our resources, and to prepare for whatever may happen. Your approbation of these measures is gratifying to your public functionaries, and the readiness you express to encounter the privations and sacrifices which these aggressions

occasion, is honorable to yourselves. The legislature of the nation now assembled together, will decide how long the state of non-intercourse may be preferable to a more serious appeal. The decided support which you tender either of the present, or such other measures as they shall adopt for the good of the Union, and the pledge of your lives, your fortunes and honor for that purpose, are calculated to inspire them with firmness in their deliberations, and an assurance that the result will be supported by their country. The confidence you are so good as to express in the conduct of the administration, is highly gratifying to them, and encourages a perseverance in their best endeavors for the public good. That these may issue in effecting your happiness, and the peace and prosperity of our country, is my sincere prayer.

TO THE CITIZENS OF THE CITY AND COUNTY OF PHILADELPHIA IN TOWN-MEETING ASSEMBLED.

February 3, 1809.

In the resolutions and address which you have been pleased to present to me, I recognize with great satisfaction the sentiments of faithful citizens, devoted to the maintenance of the rights of their country, to the sacred bond which unites these States together, and rallying round their government in support of its laws. After the intolerable assault on our maritime rights, by the declarations of the belligerent powers, that we should navigate the ocean only as they should permit, the recall of our seamen, recovery of our property abroad, and putting ourselves into a state of defence, should perseverance on their parts force us to the last appeal, were duties to first obligation. No other course was left us but to reduce our navigation within the limits they dictated, and to hold even that subject to such further restrictions as their interests or will should prescribe. To this no friend to the independence of his country should submit.

Your resolution to aid in bringing to justice all violators of the laws of their country, and particularly of the embargo laws, and to be ready at all times to assist in carrying them into effect, is

worthy of the patriotism which distinguishes the city and county of Philadelphia. This voluntary support of laws, formed by persons of our own choice, distinguishes peculiarly the minds capable of self-government. The contrary spirit is anarchy, which of necessity produces despotism. It is from the supporters of regular government only that the pledge of life, fortune, and honor is worthy of confidence.

I learn with great satisfaction your approbation of the several measures passed by the government, and enumerated in your address. For the advantages flowing from them you are indebted principally to a wise and patriotic legislature, and to the able and inestimable coadjutors with whom it has been my good fortune to be associated in the direction of your affairs. That these measures may be productive of the ends intended, must be the wish of every friend of his country; and the belief that everything has been done to preserve our peace, secure the rights of our fellow citizens, and to promote their best interests, will be a consolation under every situation to which the great disposer of events may destine us.

Your approbation of the motives for my retirement from the station so long confided to me, is a confirmation of their correctness. In no office can rotation be more expedient; and none less admits the indulgence of age. I am peculiarly sensible of your kind wishes for my happiness in the tranquillity of retirement. Nothing will contribute more to it than the hope of carrying with me the approbation of my fellow citizens, of the endeavors which I have faithfully exerted to be useful to them. To the all-protecting favor of heaven I commit yourselves and our common country.

TO THE LEGISLATURE OF THE STATE OF GEORGIA.

February 3, 1809.

The address which the Legislature of Georgia, the immediate organ of the will of their constituents, has been pleased to present to me, is received with that high satisfaction which the approba-

tion of so respectable a State is calculated to inspire. During the unexampled contest which has so long afflicted Europe, which has prostrated all the laws which have hitherto been deemed sacred among nations, and have so long constituted the rule of their intercourse, we had vainly hoped that our distance from the scene of carnage, and the invariable justice with which we have conducted ourselves towards all parties, would shield us from its baleful effects. But that commerce indispensably necessary for the exchange of the produce of this great agricultural country for the things which we want, increased by a temporary succession to the commerce of other nations, as being ourselves the only neutrals, has brought us into contact with the lawless belligerents in every sea, and threatens to involve us in the vortex of their contests. The privations for the want of a vent for our produce, have been the unavoidable result of the edicts of the belligerent powers. Should the measure adopted in consequence of them, and which meets your approbation, still save the lives and property of our brethren from the insults and rapacity of these powers, it will be a fortunate addition to the other benefits derived from it. On the other hand, should our present embarrassments eventuate in war, I am satisfied that the State of Georgia will zealously emulate her sister States in supporting the government of their choice, and in maintaining the rights and interests of the nation. Our soil, our industry, and our numbers, with the bravery which will be engaged in the cause, can never leave us without resources to maintain such a contest.

To no events which can concern the future welfare of my country, can I ever become an indifferent spectator; her prosperity will be my joy, her calamities my affliction.

Thankful for the indulgence with which my conduct has been viewed by the Legislature of Georgia, and for the kind expressions of their good will, I supplicate the favor of heaven towards them and our beloved country.

TO THE SOCIETY OF THE METHODIST EPISCOPAL CHURCH AT NEW LONDON, CONNECTICUT.

February 4, 1809.

The approbation you are so good as to express of the measures which have been recommended and pursued during the course of my administration of the national concerns, is highly acceptable. The approving voice of our fellow citizens, for endeavors to be useful, is the greatest of all earthly rewards.

No provision in our constitution ought to be dearer to man than that which protects the rights of conscience against the enterprises of the civil authority. It has not left the religion of its citizens under the power of its public functionaries, were it possible that any of these should consider a conquest over the consciences of men either attainable or applicable to any desirable purpose. To me no information could be more welcome than that the minutes of the several religious societies should prove, of late, larger additions than have been usual, to their several associations, and I trust that the whole course of my life has proved me a sincere friend to religious as well as civil liberty.

I thank you for your affectionate good wishes for my future happiness. Retirement has become essential to it; and one of its best consolations will be to witness the advancement of my country in all those pursuits and acquisitions which constitute the character of a wise and virtuous nation; and I offer sincere prayers to heaven that its benediction may attend yourselves, our country and all its sons.

TO THE GENERAL ASSEMBLY OF VIRGINIA.

February 16, 1809.

I receive with peculiar sensibility the affectionate address of the General Assembly of my native State, on my approaching retirement from the office with which I have been honored by

the nation at large. Having been one of those who entered into public life at the commencement of an æra the most extraordinary which the history of man has ever yet presented to his contemplation, I claim nothing more, for the part I have acted in it, than a common merit of having, with others, faithfully endeavored to do my duty in the several stations allotted me. In the measures which you are pleased particularly to approve, I have been aided by the wisdom and patriotism of the national legislature, and the talents and virtues of the able coadjutors with whom it has been my happiness to be associated, and to whose valuable and faithful services I with pleasure and gratitude bear witness.

From the moment that to preserve our rights a change of government became necessary, no doubt could be entertained that a republican form was most consonant with reason, with right, with the freedom of man, and with the character and situation of our fellow citizens. To the sincere spirit of republicanism are naturally associated the love of country, devotion to its liberty, its rights, and its honor. Our preference to that form of government has been so far justified by its success, and the prosperity with which it has blessed us. In no portion of the earth were life, liberty and property ever so securely held; and it is with infinite satisfaction that withdrawing from the active scenes of life, I see the sacred design of these blessings committed to those who are sensible of their value and determined to defend them.

It would have been a great consolation to have left the nation under the assurance of continued peace. Nothing has been spared to effect it; and at no other period of history would such efforts have failed to ensure it. For neither belligerent pretends to have been injured by us, or can say that we have in any instance departed from the most faithful neutrality; and certainly none will charge us with a want of forbearance.

In the desire of peace, but in full confidence of safety from our unity, our position, and our resources, I shall retire into the bosom of my native State, endeared to me by every tie which can attach the human heart. The assurances of your approbation, and that my conduct has given satisfaction to my fellow

citizens generally, will be an important ingredient in my future happiness; and that the supreme ruler of the universe may have our country under his special care, will be among the latest of my prayers.

TO THE CITIZENS OF WILMINGTON AND ITS VICINITY IN TOWN MEETING ASSEMBLED.

February 16, 1809

The resolutions which have been entered into by the citizens of Wilmington and its vicinity, are worthy of the well-known patriotism of that place.

The storm which with little intermission has been raging for so many years, which has immolated the ancient dynasties and institutions of Europe, and prostrated the principles of public law heretofore respected, has hitherto been felt but in a secondary degree by us. But threatening at length to involve us in its vortex, it is time for all good citizens to rally round the constituted authorities by a public expression of their determination to support the laws and government of their choice, and to frown into silence all disorganizing movements. Strong in our numbers, our position and resources, we can never be endangered but by schisms at home. It has been the anxious care of the government to preserve the United States from this destructive contest; but whether it can yet be done depends on a return to reason by those who have so long rejected its dictates. On our part, there is no doubt of a continuance of the same desire to conduct the nation quietly through the political storms prevailing, and to lead it in safety through the perils with which we are menaced by the ambition of foreign nations.

I am thankful for the great indulgence with which you have viewed the measures of my administration. Of their wisdom others must judge; but I may truly say they have been pursued with honest intentions, unbiassed by any personal or interested views. It is a consolation to know that the motives for my retirement are approved; and although I withdraw from public

functions, I shall continue an anxious spectator of passing events, and offer to heaven my constant prayers for the preservation of our republic, and especially of those its best principles which secure to all its citizens a perfect equality of rights.

TO JOHN GASSAWAY, ESQ.

WASHINGTON, February 17, 1809.

SIR,—I have duly received the resolutions of the republican citizens of Annapolis and Anne-Arundel county, of the 4th inst., which you were so kind as to forward to me.

That the aggressions and injuries of the belligerent nations have been the real obstructions which have interrupted our commerce, and now threaten our peace, and that the embargo laws were salutary and indispensably necessary to meet those obstructions, are truths as evident to every candid man, as it is worthy of every good citizen to declare his reprobation of that system of opposition which goes to an avowed and practical resistance of these laws. To such a resistance I trust that the patriotism of our faithful citizens in no section of the Union will give any countenance. Where the law of majority ceases to be acknowledged, there government ends, the law of the strongest takes its place, and life and property are his who can take them.

I receive with particular pleasure and thankfulness the testimony of the republican citizens of Annapolis and Anne-Arundel, in favor of the course of proceedings during my administration of the public affairs. And I can truly say, in their words, that they have been conducted with the purest regard and devotion to the interests of the people and the national safety and honor; and I pray you, with my acknowledments for these favorable sentiments, to accept the assurances of my high respect and consideration.

TO CAPTAIN JOSEPH ———, JR.

WASHINGTON, February 17, 1809.

SIR,—The resolutions entered into at a meeting of the officers of the Legionary Brigade of the 1st Division of Massachusetts militia, on the 31st ult., which you have been pleased to forward to me, breathe that spirit of fidelity to our common country which must ever be peculiarly the spirit of its militia, and which renders that the safest and last reliance of a republican nation. The perils with which we have been for some time environed, have been such as ought to have induced every faithful citizen to unite in support of the rights of his country, laying aside little differences, political or personal, till they might be indulged without hazarding the safety of our country. Assailed in our essential rights by two of the most powerful nations on the globe, we have remonstrated, negotiated, and at length retired to the last stand, in the hope of peaceably preserving our rights. In this extremity I have entire confidence that no part of *the people* in any section of the Union, will desert the banners of their country, and co-operate with the enemies who are threatening its existence. The subscribing officers of the legionary brigade have furnished an honorable example of declaring their attachment to the constitution, the laws, and the union of the States, that they will at the call of law, rally around the standard of their country, and protect its constitution, laws, right and liberties, against all foes. I thank them, in the name of their country, for these patriotic resolutions, the pledge of support they tender will lead them to no more than the honor of a soldier and fidelity of a citizen would of itself require. I salute yourself and the subscribing offices with esteem and respect.

TO THE REPUBLICAN YOUNG MEN OF NEW LONDON, BENJAMIN HEMPSTEAD CHAIRMAN.

February 24, 1809.

The approbation which you are pleased to express of my past administration, is highly gratifying to me. That in a free gov-

ernment there should be differences of opinion as to public measures and the conduct of those who direct them, is to be expected. It is much, however, to be lamented, that these differences should be indulged at a crisis which calls for the undivided councils and energies of our country, and in a form calculated to encourage our enemies in the refusal of justice, and to force their country into war as the only resource for obtaining it.

You do justice to the government in believing that their utmost endeavors have been used to steer us clear of wars with other nations, and honor to yourselves in declaring that if these endeavors prove ineffectual, and your country is called upon to defend its rights and injured honor by an appeal to arms, you will be ready for the contest, and will meet our enemies at the threshold of our country. While prudence will endeavor to avoid this issue, bravery will prepare to meet it.

I thank you, fellow citizens, for your kind expressions of regard for myself, and prayers for my future happiness, and I join in supplications to that Almighty Being who has heretofore guarded our councils, still to continue his gracious benedictions towards our country, and that yourselves may be under the protection of his divine favor.

TO THE REPUBLICANS OF LOUDON COUNTY, CONVENED AT LEESBURG, FEBRUARY, 13, 1809.

February 24, 1809.

The measures lately pursued in preference either to war or an ignominious surrender of our rights as an independent people, have undoubtedly produced the beneficial effects of saving our property and seamen, of lengthening the term of our peace, and of giving time for defensive preparations. Other efficacious results would probably have been produced, in a much higher degree, had not the measures been counteracted by unworthy passions. It is still possible that the blessings of peace may be continued to us, should sounder calculations of interest induce a return to justice by the aggressive nations. But should we be

disappointed in what ought to be so justly expected, the solemn pledge of life and fortune in vindication of our violated rights received from yourselves as well as from other citizens, leaves us without apprehension as to the issue of any contest into which we may be forced.

I thank you particularly for the approbation you manifest of my conduct and motives, and the kind concern you express for my future happiness, and I beg leave to tender you my best wishes and assurances of respect.

TO GOVERNOR TOMPKINS.

WASHINGTON, February 24, 1809.

SIR,—I received, a few days ago, your Excellency's favor of the 9th inst., covering the patriotic resolutions of the Legislature of New York, of the 3d. The times do certainly render it incumbent on all good citizens, attached to the rights and honor of their country, to bury in oblivion all internal differences, and rally around the standard of their country in opposition to the outrages of foreign nations. All attempts to enfeeble and destroy the exertions of the General Government, in vindication of our national rights, or to loosen the bands of union by alienating the affections of the people, or opposing the authority of the laws at so eventful a period, merit the discountenance of all.

The confidence which the Legislature expresses in the national administration is highly consolatory, and their determination to support the just rights of their country with their lives and fortunes, are worthy of the high character of the State of New York.

By all, I trust, the union of these States will ever be considered as the Palladium of their safety, their prosperity and glory, and all attempts to sever it will be frowned on with reprobation and abhorrence. And I have equal confidence, that all moved by the sacred principles of liberty and patriotism will prepare themselves for any crisis we may be able to meet, and will be ready to co-operate with each other, and with the constituted

authorities, in resisting and repelling the aggressions of foreign nations.

The Legislature may be assured that every exertion will be used to put the United States in the best condition of defence, that we may be fully prepared to meet the dangers which menace the peace of our country. I avail myself with pleasure of every occasion to tender to your Excellency the assurances of my high respect and consideration.

TO GENERAL JAMES ROBERTSON.

WASHINGTON, February 24, 1809.

SIR,—I have duly received your letter covering the resolutions of the citizens of West Tennessee, assembled in the town of Nashville. Every friend of his country must feel the regret and indignation they so laudably express at the unjust and unprecedented measures adopted by the belligerent powers of Europe, violating our maritime rights as a free and independent nation, and compelling us for their preservation to resort to measures the effects of which we must all feel. And all must see with pleasure their honorable declaration against receding from the grounds taken with regard to the belligerent nations, and their reprobation of the surrender of any essential points in difference between us and those nations.

Should the embargo be continued, or a non-intercourse be substituted, it is pleasing to know that our fellow citizens will afford every aid in their power to render it effectual; and if war must at length be resorted to, I have entire confidence in their declarations, that as citizen soldiers they will be ready at the call of their country to prove to their enemies that they know how to value and defend their rights.

I am happy to learn their approbation of the measures adopted by the General Government in relation to Great Britain and France, and particularly thankful for the satisfaction they express with the course I have pursued in the discharge of the arduous

duties which devolved on me as chief magistrate of the United States.

I pray you to accept for yourself and them the assurances of my great respect and consideration.

THE REPUBLICANS OF THE COUNTY OF NIAGARA, CONVENED AT CLARENCE ON THE 26TH OF JANUARY, 1809.

February 24, 1809.

The eventful crisis in our national affairs so truly portrayed in your very friendly address, has justly excited your serious attention. The nations of the earth prostrated at the foot of power, the ocean submitted to the despotism of a single nation, the laws of nature and the usages which have hitherto regulated the intercourse of nations and interposed some restraint between power and right, now totally disregarded. Such is the state of things when the United States are left single-handed to maintain the rights of neutrals, and the principles of public right against a warring world. Under these circumstances, it is a great consolation to receive the assurances of our faithful citizens that they will unite their destiny with their government, will rally under the banners of their country, and with their lives and fortunes, defend and support their civil and religious rights. This declaration, too, is the more honorable from those whose frontier residence will expose them particularly to the inroads of a foe.

I receive with great pleasure your approbation of the impartial neutrality we have so invariably pursued, and of the trying measure of embargo rendered necessary by the belligerent edicts, which has saved our seamen and our property, has given us time to prepare for vindicating our honor and preserving our national independence, and has excited the spirit of manufacturing for ourselves those things which, though we raised the raw material, we have hitherto sought from other countries at the risk of war and rapine.

I thank you for your kind wishes for my future happiness in retiring from public life to the bosom of my family. Nothing

will contribute more to it than the assurance that my fellow citizens approve of my endeavors to serve them, and the hope that we shall be continued in the blessings we have enjoyed under the favor of Heaven.

TO CAPTAIN QUIN MORTON.

WASHINGTON, February 24, 1809.

SIR,—I have duly received your favor tendering the service of fifty citizens of Tennessee as a company of volunteer riflemen. There are two acts of Congress which regulate the acceptances of these tenders; that of the last year (1808) is for a service of six months, and authorizes the governors to accept; and that of 1807, for a service of twelve months, authorizing the President to accept, who has delegated that power to the governors of the several States. Under whichever of these, therefore, your tender was meant to be made, I must pray you to repeat it to the governor of the State; expressing, at the same time, my great satisfaction at the readiness and patriotism with which I see my fellow citizens resort to the standard of their country when danger threatens it. Accept for your company my thanks on the public behalf, and for yourself the assurances of my respect.

TO THE TAMMANY SOCIETY OR COLUMBIAN ORDER OF THE CITY OF WASHINGTON.

March 2, 1809.

The observations are but too just which are made in your friendly address, on the origin and progress of those abuses of public confidence and power which have so often terminated in a suppression of the rights of the people, and the mere aggrandizement and emolument of their oppressors. Taught by these truths, and aware of the tendency of power to degenerate into abuse, the worthies of our own country have secured its independence by the establishment of a constitution and form of

government for our nation, calculated to prevent as well as to correct abuse.

Beyond the great water the torch of discord has been long lighted up, and long and unremitting have been the endeavors of the belligerents to immerge us in the evils they were inflicting on each other, and to make us parties in their quarrels. Whether it will be possible much longer to escape these evils, is difficult to decide; but you do me justice in believing that no efforts on my part have been spared to effect this purpose, and to preserve for our nation the blessings of peace.

I learn with sincere pleasure that the measures I have pursued in directing the affairs of our nation have met with approbation. Their sole object has certainly been the good of my fellow citizens, which sometimes may have been mistaken, but never intentionally disregarded. This approbation is the more valued as being the spontaneous effusion of the feelings of those who have lived in the same city with myself, and having examined carefully and even jealously my conduct through every passing day, bear testimony to their belief in its fidelity.

I am happy, in my retirement, to carry with me your esteem and your prayers for my health, peace and happiness; and I sincerely supplicate Heaven that your own personal welfare may long make a part of the general prosperity of a great, a free, and a happy people.

TO THE CITIZENS OF WASHINGTON.

March 4, 1809.

I received with peculiar gratification the affectionate address of the citizens of Washington, and in the patriotic sentiments it expresses, I see the true character of the national metropolis.

The station which we occupy among the nations of the earth is honorable, but awful. Trusted with the destinies of this solitary republic of the world, the only monument of human rights, and the sole depository of the sacred fire of freedom and self-government, from hence it is to be lighted up in other regions

of the earth, if other regions of the earth shall ever become susceptible of its benign influence. All mankind ought then, with us, to rejoice in its prosperous, and sympathize in its adverse fortunes, as involving everything dear to man. And to what sacrifices of interest, or convenience, ought not these considerations to animate us? To what compromises of opinion and inclination, to maintain harmony and union among ourselves, and to preserve from all danger this hallowed ark of human hope and happiness. That differences of opinion should arise among men, on politics, on religion, and on every other topic of human inquiry, and that these should be freely expressed in a country where all our faculties are free, is to be expected. But these valuable privileges are much prevented when permitted to disturb the harmony of social intercourse, and to lesson the tolerance of opinion. To the honor of society here, it has been characterized by a just and generous liberality, and an indulgence of those affections which, without regard to political creeds, constitute the happiness of life. That the improvement of this city must proceed with sure and steady steps, follows from its many obvious advantages, and from the enterprizing spirit of its inhabitants, which promises to render it the fairest seat of wealth and science.

It is very gratifying to me that the general course of my administration is approved by my fellow citizens, and particularly that the motives of my retirement are satisfactory. I part with the powers entrusted to me by my country, as with a burthen of heavy bearing; but it is with sincere regret that I part with the society in which I have lived here. It has been the source of much happiness to me during my residence at the seat of government, and I owe it much for its kind dispositions. I shall ever feel a high interest in the prosperity of the city, and an affectionate attachment to its inhabitants.

TO THE REPUBLICANS OF GEORGETOWN.

March 8, 1809.

The affectionate address of the republicans of Georgetown on my retirement from public duty, is received with sincere pleasure. In the review of my political life, which they so indulgently take, if it be found that I have done my duty as other faithful citizens have done, it is all the merit I claim. Our lot has been cast on an awful period of human history. The contest which began with us, which ushered in the dawn of our national existence and led us through various and trying scenes, was for everything dear to free-born man. The principles on which we engaged, of which the charter of our independence is the record, were sanctioned by the laws of our being, and we but obeyed them in pursuing undeviatingly the course they called for. It issued finally in that inestimable state of freedom which alone can ensure to man the enjoyment of his equal rights. From the moment which sealed our peace and independence, our nation has wisely pursued the paths of peace and justice. During the period in which I have been charged with its concerns, no effort has been spared to exempt us from the wrongs and the rapacity of foreign nations, and with you I feel assured that no American will hesitate to rally round the standard of his insulted country, in defence of that freedom and independence achieved by the wisdom of sages, and consecrated by the blood of heroes.

The favorable testimony of those among whom I have lived, and lived happily as a fellow citizen, as a neighbor, and in the various relations of social life, will enliven the days of my retirement, and be felt and cherished with affection and gratitude.

I thank you, fellow citizens, for your kind prayers for my future happiness. I shall ever retain a lively sense of your friendly attentions, and continue to pray for your prosperity and well being.

TO STEPHEN CROSS, ESQ., TOPSHAM.

MONTICELLO, March 28, 1809.

To the delegates from the various towns in the county of Essex and commonwealth of Massachusetts, assembled on the 20th of February, at Topsham.

The receipt of your kind address in the last moments of the session of Congress, will, I trust, offer a just apology for this late acknowledgment of it. I am very sensible of the indulgence with which you are so good as to review the measures of my late administration, and I feel for that indulgence the sentiments of gratitude it so justly calls for. The stand which has been made on behalf of our seamen enslaved and incarcerated in foreign ships, and against the prostration of our rights on the ocean under laws of nature acknowledged by all civilized nations, was an effort due to the protection of our commerce, and to that portion of our fellow citizens engaged in the pursuits of navigation. The opposition of the same portion to the vindication of their peculiar rights, has been as wonderful as the loyalty of their agricultural brethren in the assertion of them has been disinterested and meritorious. If the honor of the nation can be forgotten, whether the abandonment of the right of navigating the ocean may not be compensated by exemption from the wars it would produce, may be a question for our future councils, which the disclaimer of our navigating citizens may, if continued, relieve from the embarrasment of their rights.

Sincerely and affectionately attached to our national constitution, as the ark of our safety, and grand palladium of our peace and happiness, I learn with pleasure that the number of those in the county of Essex, who read and think for themselves, is great, and constituted of men who will never surrender but with their lives, the invaluable liberties achieved by their fathers. Their elevated minds put all to the hazard for a three penny duty on tea, by the same nation which now exacts a tribute equal to the value of half our exported produce.

I thank you, fellow citizens, for the kind interest you take in my future happiness, and I sincerely supplicate that overruling

providence which governs the destinies of men and nations, to dispense his choicest blessings on yourselves and our beloved country.

TO THE REPUBLICAN MECHANICS OF THE TOWN OF LEESBURG AND ITS VICINITY, ASSEMBLED ON THE 27TH OF FEBRUARY LAST.

MONTICELLO, March 29, 1809.

The receipt of your kind address in the last moments of the session of Congress, will, I trust, offer a just apology for its late acknowledgment.

Your friendly salutations on the close of my public life, and approbation of the motives which dictated my retirement, are received with great satisfaction.

That there should be a contrariety of opinions respecting the public agents and their measures, and more especially respecting that which recently suspended our commere and produced temporary privations, is ever to be expected among free men; and I am happy to find you are in the number of those who are satisfied that the course pursued was marked out by our country's interest, and called for by her dearest rights. While the principles of our constitution give just latitude to inquiry, every citizen faithful to it will, with you, deem embodied expressions of discontent, and open outrages of law and patriotism, as dishonorable as they are injurious; and there is reason to believe that had the efforts of the government against the innovations and tyranny of the belligerent powers been unopposed among ourselves, they would have been more effectual towards the establishment of our rights.

Unconscious of partiality between the different callings of my fellow citizens, I trust that a fair review of my attention to the interests of commerce in particular, in every station of my political life, will afford sufficient proofs of my just estimation of its importance in the social system. What has produced our present difficulties, and what will have produced the impending war, if that is to be our lot? Our efforts to save the rights of

commerce and navigation. From these, solely and exclusively, the whole of our present dangers flow.

With just reprobations of the resistance made or menaced against the laws of our country, I applaud your patriotic resolution to meet hostility to them with the energy and dignity of freemen; and thankful for your solicitude for my health and happiness, I salute you with affectionate sentiments of respect.

TO THE FRIENDS OF THE ADMINISTRATION OF THE UNITED STATES IN BRISTOL COUNTY, RHODE ISLAND.

MONTICELLO, March 29, 1809.

The receipt of your friendly address in the last moments of the session of Congress, will, I trust, offer a just apology for its late acknowledgment.

We have certainly cause to rejoice that since the waves of affliction and peril, raised from the storm of war by the rival belligerents of Europe, have undulated on our shores, the councils of the nation have been able to preserve it from the numerous evils which have awfully menaced, and otherwise might have fallen upon us. How long we may yet retain this desirable position is difficult to be foreseen. But confident I am that as long as it can be done consistently with the honor and interest of our country, it will be maintained by those to whom you have confided the helm of government. A surer pledge for this cannot be found than in the public and private virtues of the successor to the chair of government, which you so justly recognize. Your reflections are certainly correct on the importance of a good administration in a republican government, towards securing to us our dearest rights, and the practical enjoinment of all our liberties; and such an one can never fail to give consolation to the friends of free government, and mortification to its enemies. In retiring from the duties of my late station, I have the consolation of knowing that such is the character of those into whose hands they are transferred, and of a conviction that all will be done for us which wisdom and virtue can do.

I thank you, fellow citizens, for the kind sentiments of your address, and am particularly gratified by your approbation of the course I have pursued; and I pray heaven to keep you under its holy favor.

TO THE DEMOCRATIC REPUBLICAN DELEGATES FROM THE TOWNSHIPS OF WASHINGTON COUNTY, IN PENNSYLVANIA, CONVENED ON THE 21ST OF FEBRUARY, 1809.

MONTICELLO, March 31, 1809.

The satisfaction you express, fellow citizens, that my endeavors have been unremitting to preserve the peace and independence of our country, and that a faithful neutrality has been observed towards all the contending powers, is highly grateful to me; and there can be no doubt that in any common times they would have saved us from the present embarrassments, thrown in the way of our national prosperity by the rival powers.

It is true that the embargo laws have not had all the effect in bringing the powers of Europe to a sense of justice, which a more faithful observance of them might have produced. Yet they have had the important effects of saving our seamen and property, of giving time to prepare for defence; and they will produce the further inestimable advantage of turning the attention and enterprise of our fellow citizens, and the patronage of our State legislatures, to the establishment of useful manufactures in our country. They will have hastened the day when an equilibrium between the occupations of agriculture, manufactures, and commerce, shall simplify our foreign concerns to the exchange only of that surplus which we cannot consume for those articles of reasonable comfort or convenience which we cannot produce.

Our lot has been cast, by the favor of heaven, in a country and under circumstances, highly auspicious to our peace and prosperity, and where no pretence can arise for the degrading and oppressive establishments of Europe. It is our happiness that honorable distinctions flow only from public approbation; and that finds no object in titled dignitaries and pageants. Let

us then, fellow citizens, endeavor carefully to guard this happy state of things, by keeping a watchful eye over the disaffection of wealth and ambition to the republican principles of our constitution, and by sacrificing all our local and personal interests to the cultivation of the Union, and maintenance of the authority of the laws.

My warmest thanks are due to you, fellow citizens, for the affectionate sentiments expressed in your address, and my prayers will ever be offered for your welfare and happiness.

TO THE CITIZENS OF ALLEGHANY COUNTY, IN MARYLAND.

MONTICELLO, March 31, 1809.

The sentiments of attachment, respect, and esteem, expressed in your address of the 20th ult., have been read with pleasure, and would sooner have received my thanks, but for the mass of business engrossing the last moments of a session of Congress. I am gratified by your approbation of our efforts for the general good, and our endeavors to promote the best interests of our country, and to place them on a basis firm and lasting. The measures respecting our intercourse with foreign nations were the result, as you suppose, of a choice between two evils, either to call and keep at home our seamen and property, or suffer them to be taken under the edicts of the belligerent powers. How a difference of opinion could arise between these alternatives is still difficult to explain on any acknowledged ground; and I am persuaded, with you, that when the storm and agitation characterizing the present moment shall have subsided, when passion and prejudice shall have yielded to reason its usurped place, and especially when posterity shall pass its sentence on the present times, justice will be rendered to the course which has been pursued. To the advantages derived from the choice which was made will be added the improvements and discoveries made and making in the arts, and the establishments in domestic manufacture, the effects whereof will be permanent and diffused through our wide-extended continent. That we may live to behold the

storm which seems to threaten us, pass like a summer's cloud away, and that yourselves may continue to enjoy all the blessings of peace and prosperity, is my fervent prayer.

TO THE REPUBLICAN CITIZENS OF WASHINGTON COUNTY, MARYLAND, ASSEMBLED AT HAGERSTOWN ON THE 6TH INSTANT.

MONTICELLO, March 31, 1809.

The affectionate sentiments you express on my retirement from the high office conferred upon me by my country, are gratefully received and acknowledged with thankfulness. Your approbation of the various measures which have been pursued, cannot but be highly consolatory to myself, and encouraging to future functionaries, who will see that their honest endeavors for the public good will receive due credit with their constituents. That the great and leading measure respecting our foreign intercourse was the most salutary alternative, and preferable to the submission of our rights as a free and independent republic, or to a war at that period, cannot be doubted by candid minds. Great and good effects have certainly flowed from it, and greater would have been produced, had they not been, in some degree, frustrated by unfaithful citizens.

If, in my retirement to the humble station of a private citizen, I am accompanied with the esteem and approbation of my fellow citizens, trophies obtained by the blood-stained steel, or the tattered flags of the tented field, will never be envied. The care of human life and happiness, and not their destruction, is the first and only legitimate object of good government.

I salute you, fellow citizens, with every wish for your welfare, and the perpetual duration of our government, in all the purity of its republican principles.

TO JAMES HOCHIE, ESQ., PRESIDENT OF THE ANCIENT PLYMOUTH SOCIETY OF NEW LONDON.

MONTICELLO, April 2, 1809.

SIR,—I have duly received your favor of March 17th, covering resolutions of the Ancient Plymouth Society of New London, approving my conduct, as well during the period of my late administration, as the preceding portion of my public services.

Our lot has been cast in times which called for the best exertions of all our citizens to recover and preserve the rights which nature had given them; and we may say with truth, that the mass of our fellow citizens have performed with zeal and effect the duties called for. If I have been fortunate enough to give satisfaction in the performance of those allotted to me by our country, I find an ample reward in the assurances of that satisfaction. Possessed of the blessing of self-government, and of such a portion of civil liberty as no other civilized nation enjoys, it now behooves us to guard and preserve them by a continuance of the sacrifices and exertions by which they were acquired, and especially to nourish that union which is their sole guarantee. I pray you to accept for yourself and your associates the assurances of my high consideration and respect.

TO HIS EXCELLENCY GOVERNOR WRIGHT.

MONTICELLO, April 3, 1809.

DEAR SIR,—Your friendly note of March 3d, was delivered to me on that day. You know the pressure of the last moments of a session of Congress, and can judge of that of my own departure from Washington, and of my first attentions here. This must excuse my late acknowledgment of your note. The assurances of your approbation of the course I have observed are highly flattering, and the more so, as you have been sometimes an eye-witness and long of the vicinage of the public councils. The testimony of my fellow citizens, and especially of one who, having been himself in the high departments, to the means of

information united the qualifications to judge, is a consolation which will sweeten the residue of my life. The fog which arose in the east in the last moments of my service, will doubtless clear away and expose under a stronger light the rocks and shoals which have threatened us with danger. It is impossible the good citizens of the east should not see the agency of England, the tools she employs among them, and the criminal arts and falsehoods of which they have been the dupes. I still trust and pray that our union may be perpetual, and I beg you to accept the assurances of my high esteem and respect.

TO THE LEGISLATURE OF THE STATE OF NEW YORK.

MONTICELLO, April 12, 1809.

I receive with respect and gratitude, from the Legislature of New York, on my retirement from the office of chief magistrate of the United States, the assurances of their esteem, and of their satisfaction with the services I have endeavored to render. The welfare of my fellow citizens, and the perpetuation of our republican institutions, having been the governing principles of my public life, the favorable testimony borne by the Legislature of a State so respectable as that of New York, gives me the highest consolation. And this is much strengthened by an intimate conviction that the same principles will govern the conduct of my successor, whose talents, and eminent services, are a certain pledge that the confidence in him expressed by the Legislature of New York, will never be disappointed.

Sole depositories of the remains of human liberty, our duty to ourselves, to posterity, and to mankind, call on us by every motive which is sacred or honorable, to watch over the safety of our beloved country during the troubles which agitate and convulse the residue of the world, and to sacrifice to that all personal and local considerations. While the boasted energies of monarchy have yielded to easy conquest the people they were to protect, should our fabric of freedom suffer no more than the slight agitations we have experienced, it will be an useful lesson

to the friends as well as the enemies of self-government. That it may stand the shocks of time and accident, and that your own may make a distinguished part of the mass of prosperity it may dispense, will be my latest prayer.

TO THE REPUBLICANS OF QUEEN ANNE'S COUNTY.

MONTICELLO, April 13, 1809.

I have received, fellow citizens, your farewell address, with those sentiments of respect and satisfaction which its very friendly terms are calculated to inspire. With the consciousness of having endeavored to serve my fellow citizens according to their best interests, these testimonies of their good will are the sole and highest remuneration my heart has ever desired.

I am sensible of the indulgence with which you review the measures which have been pursued; and approving our sincere endeavors to observe a strict neutrality with respect to foreign powers. It is with reason you observe that, if hostilities must succeed, we shall have the consolation that justice will be on our side. War has been avoided from a due sense of the miseries, and the demoralization it produces, and of the superior blessings of a state of peace and friendship with all mankind. But peace on our part, and war from others, would neither be for our happiness or honor; and should the lawless violences of the belligerent powers render it necessary to return their hostilities, no nation has less to fear from a foreign enemy.

I thank you, fellow citizens, for your very kind wishes for my happiness, and pray you to accept the assurances of my cordial esteem, and grateful sense of your favor.

TO THE MEMBERS OF THE BAPTIST CHURCH OF BUCK MOUNTAIN IN ALBEMARLE.

MONTICELLO, April 13, 1809.

I thank you, my friends and neighbors, for your kind congratulations on my return to my native home, and on the op-

portunities it will give me of enjoying, amidst your affections, the comforts of retirement and rest. Your approbation of my conduct is the more valued as you have best known me, and is an ample reward for any services I may have rendered. We have acted together from the origin to the end of a memorable revolution, and we have contributed, each in the line allotted us, our endeavors to render its issue a permanent blessing to our country. That our social intercourse may, to the evening of our days, be cheered and cemented by witnessing the freedom and happiness for which we have labored, will be my constant prayer. Accept the offering of my affectionate esteem and respect.

TO JONATHAN LOW, ESQ., HARTFORD, CONNECTICUT.

MONTICELLO, April 13, 1809.

SIR,—I received on the 6th instant your favor covering the resolutions of the general meeting of the republicans of the State of Connecticut who had been convened at Hartford; and I see with pleasure the spirit they breathe. They express with truth the wrongs we have sustained, the forbearance we have exercised, and the duty of rallying round the constituted authorities, for the protection of our Union. Surrounded by such difficulties and dangers, it is really deplorable that any should be found among ourselves vindicating the conduct of the aggressors; cooperating with them in multiplying embarrassments to their own country, and encouraging disobedience to the laws provided for its safety. But a spirit which should go further, and countenance the advocates for a dissolution of the Union, and for setting in hostile array one portion of our citizens against another, would require to be viewed under a more serious aspect. It would prove indeed that it is high time for every friend to his country, in a firm and decided manner, to express his sentiments of the measures which government has adopted to avert the impending evils, unhesitatingly to pledge himself for the support of the laws, liberties and independence of his country; and, with the general meeting of the republicans of Connecticut, to resolve that, for

the preservation of the Union, the support and enforcement of the laws, and for the resistance and repulsion of every enemy, they will hold themselves in readiness, and put at stake, if necessary, their lives and fortunes, on the pledge of their sacred honor.

With my thanks for the mark of attention in making this communication, I pray you to accept for yourself and my respectable fellow citizens from whom it proceeds, the assurance of my high consideration, and my prayers for their welfare.

TO THE TAMMANY SOCIETY OF THE CITY OF BALTIMORE.

MONTICELLO, May 25, 1809.

Your free and cordial salutations in my retirement are received, fellow citizens, with great pleasure, and the happiness of that retirement is much heightened by assurances of satisfaction with the course I have pursued in the transaction of the public affairs, and that the confidence my fellow citizens were pleased to repose in me, has not been disappointed.

Great sacrifices of interest have certainly been made by our nation under the difficulties latterly forced upon us by transatlantic powers. But every candid and reflecting mind must agree with you, that while these were temporary and bloodless, they were calculated to avoid permanent subjection to foreign law and tribute, relinquishment of independent rights, and the burthens, the havoc, and desolations of war. That these will be ultimately avoided, we have now some reason to hope; and the successful example of recalling nations to the practice of justice by peaceable appeals to their interests, will doubtless have salutary effects on our future course. As a countervail, too, to our short-lived sacrifices, when these shall no longer be felt, we shall permanently retain the benefit they have prompted, of fabricating for our own use the materials of our own growth, heretofore carried to the work-houses of Europe, to be wrought and returned to us.

The hope you express that my successor will continue in the same system of measures, is guaranteed, as far as future circum-

stances will permit, by his enlightened and zealous participation in them heretofore, and by the happy pacification he is now effecting for us. Your wishes for my future happiness are very thankfully felt, and returned by the sincerest desires that yourselves may experience the favors of the great dispenser of all good.

PART IV.

INDIAN ADDRESSES.

I.

CHARLOTTESVILLE, June 1781.

To Brother John Baptist de Coigne:—

BROTHER JOHN BAPTIST DE COIGNE,—I am very much pleased with the visit you have made us, and particularly that it has happened when the wise men from all parts of our country were assembled together in council, and had an opportunity of hearing the friendly discourse you held to me. We are all sensible of your friendship, and of the services you have rendered, and I now, for my countrymen, return you thanks, and, most particularly, for your assistance to the garrison which was besieged by the hostile Indians. I hope it will please the great being above to continue you long in life, in health and in friendship to us; and that your son will afterwards succeed you in wisdom, in good disposition, and in power over your people. I consider the name you have given as particularly honorable to me, but I value it the more as it proves your attachment to my country. We, like you, are Americans, born in the same land, and having the same interests. I have carefully attended to the figures represented on the skins, and to their explanation, and shall always keep them hanging on the walls in remembrance of you and your nation. I have joined with you sincerely in smoking the pipe of peace; it is a good old custom handed down by your ancestors, and as such I respect and join in it with reverence. I

hope we shall long continue to smoke in friendship together. You find us, brother, engaged in war with a powerful nation. Our forefathers were Englishmen, inhabitants of a little island beyond the great water, and, being distressed for land, they came and settled here. As long as we were young and weak, the English whom we had left behind, made us carry all our wealth to their country, to enrich them ; and, not satisfied with this, they at length began to say we were their slaves, and should do whatever they ordered us. We were now grown up and felt ourselves strong, we knew we were free as they were, that we came here of our own accord and not at their biddance, and were determined to be free as long as we should exist. For this reason they made war on us. They have now waged that war six years, and have not yet won more land from us than will serve to bury the warriors they have lost. Your old father, the king of France, has joined us in the war, and done many good things for us. We are bound forever to love him, and wish you to love him, brother, because he is a good and true friend to us. The Spaniards have also joined us, and other powerful nations are now entering into the war to punish the robberies and violences the English have committed on them. The English stand alone, without a friend to support them, hated by all mankind because they are proud and unjust. This quarrel, when it first began, was a family quarrel between us and the English, who were then our brothers. We, therefore, did not wish you to engage in it at all. We are strong enough of ourselves without wasting your blood in fighting our battles. The English, knowing this, have been always suing to the Indians to help them fight. We do not wish you to take up the hatchet. We love and esteem you. We wish you to multiply and be strong. The English, on the other hand, wish to set you and us to cutting one another's throats, that when we are dead they may take all our land. It is better for you not to join in this quarrel, unless the English have killed any of your warriors or done you any other injury. If they have, you have a right to go to war with them, and revenge the injury, and we have none to restrain you. Any free nation has a right to punish those who

have done them an injury. I say the same, brother, as to the Indians who treat you ill. While I advise you, like an affectionate friend, to avoid unnecessary war, I do not assume the right of restraining you from punishing your enemies. If the English have injured you, as they have injured the French and Spaniards, do like them and join us in the war. General Clarke will receive you and show you the way to their towns. But if they have not injured you, it is better for you to lie still and be quiet. This is the advice which has been always given by the great council of the Americans. We must give the same, because we are but one of thirteen nations, who have agreed to act and speak together. These nations keep a council of wise men always sitting together, and each of us separately follow their advice. They have the care of all the people and the lands between the Ohio and Mississippi, and will see that no wrong be committed on them. The French settled at Kaskaskias, St. Vincennes, and the Cohos, are subject to that council, and they will punish them if they do you any injury. If you will make known to me any just cause of complaint against them, I will represent it to the great council at Philadelphia, and have justice done you.

Our good friend, your father, the King of France, does not lay any claim to them. Their misconduct should not be imputed to him. He gave them up to the English the last war, and we have taken them from the English. The Americans alone have a right to maintain justice in all the lands on this side the Mississippi,—on the other side the Spaniards rule. You complain, brother, of the want of goods for the use of your people. We know that your wants are great, notwithstanding we have done everything in our power to supply them, and have often grieved for you. The path from hence to Kaskaskias is long and dangerous; goods cannot be carried to you in that way. New Orleans has been the only place from which we could get goods for you. We have bought a great deal there; but I am afraid not so much of them have come to you as we intended. Some of them have been sold of necessity to buy provisions for our posts. Some have been embezzled by our own drunken and

roguish people. Some have been taken by the Indians and many by the English.

The Spaniards, having now taken all the English posts on the Mississippi, have opened that channel free for our commerce, and we are in hopes of getting goods for you from them. I will not boast to you, brother, as the English do, nor promise more than we shall be able to fulfil. I will tell you honestly, what indeed your own good sense will tell you, that a nation at war cannot buy so many goods as when in peace. We do not make so many things to send over the great waters to buy goods, as we made and shall make again in time of peace. When we buy those goods, the English take many of them, as they are coming to us over the great water. What we get in safe, are to be divided among many, because we have a great many soldiers, whom we must clothe. The remainder we send to our brothers the Indians, and in going, a great deal of it is stolen or lost. These are the plain reasons why you cannot get so much from us in war as in peace. But peace is not far off. The English cannot hold out long, because all the world is against them. When that takes place, brother, there will not be an Englishman left on this side the great water. What will those foolish nations then do, who have made us their enemies, sided with the English, and laughed at you for not being as wicked as themselves? They are clothed for a day, and will be naked forever after; while you, who have submitted to short inconvenience, will be well supplied through the rest of your lives. Their friends will be gone and their enemies left behind; but your friends will be here, and will make you strong against all your enemies. For the present you shall have a share of what little goods we can get. We will order some immediately up the Mississippi for you and for us. If they be little, you will submit to suffer a little as your brothers do for a short time. And when we shall have beaten our enemies and forced them to make peace, we will share more plentifully. General Clarke will furnish you with ammunition to serve till we can get some from New Orleans. I must recommend to you particular attention to him. He is our great, good, and trusty warrior; and we have put everything

under his care beyond the Alleghanies. He will advise you in all difficulties, and redress your wrongs. Do what he tells you, and you will be sure to do right. You ask us to send schoolmasters to educate your son and the sons of your people. We desire above all things, brother, to instruct you in whatever we know ourselves. We wish to learn you all our arts and to make you wise and wealthy. As soon as there is peace we shall be able to send you the best of schoolmasters; but while the war is raging, I am afraid it will not be practicable. It shall be done, however, before your son is of an age to receive instruction.

This, brother, is what I had to say to you. Repeat it from me to all your people, and to our friends, the Kickapous, Piorias, Piankeshaws and Wyattanons. I will give you a commission to show them how much we esteem you. Hold fast the chain of friendship which binds us together, keep it bright as the sun, and let them, you and us, live together in perpetual love.

II.

Speeches of John Baptist de Coigne, Chief of the Wabash and Illinois Indians, and other Indian Chiefs.

Thomas Jefferson has the honor to send to the President the speech of De Coigne, written at length from his notes very exactly. He thinks he can assure the President that not a sentiment delivered by the French interpreter is omitted, nor a single one inserted which was not expressed. It differs often from what the English interpreter delivered, because he varied much from the other, who alone was regarded by Thomas Jefferson.

February 1, 1793. The President having addressed the chiefs of the Wabash and Illinois Indians, John Baptist De Coigne, chief of Kaskaskia, spoke as follows:—

Father,—I am about to open to you my heart. I salute first the Great Spirit, the Master of life, and then you.

I present you a black pipe on the death of chiefs who have come here and died in your bed. It is the calumet of the dead—take it and smoke it in remembrance of them. The dead pray you to listen to the living, and to be their friends. They are

gone, we cannot recall them. Let us then be contented; for, as you have said, to-morrow, perhaps, it may be our turn. Take then their pipe, and as I have spoken for the dead, let me now address you for the living. [He delivered the black pipe.]

[Here Three-Legs, a Piankeshaw chief, came forward and carried round a white pipe, from which every one smoked.]

John Baptist De Coigne spoke again:

Father,—The sky is now cleared. I am about to open my heart to you again. I do it in the presence of the Great Spirit, and I pray you to attend.

You have heard the words of our father, General Putnam. We opened our hearts to him, we made peace with him, and he has told you what we said.

This pipe is white, I pray you to consider it as of the Wyattanons, Piankeshaws, and the people of Eel river. The English at Detroit are very jealous of our father. I have used my best endeavors to keep all the red men in friendship with you, but they have drawn over the one-half, while I have kept the other. Be friendly then to those I have kept.

I have long known you, General Washington, the Congress, Jefferson, Sinclair. I have labored constantly for you to preserve peace.

You see your children on this side, [pointing to the friends of the dead chief,] they are now orphans. Take care, then, of the orphans of our dead friends.

Father,—Your people of Kentucky are like mosquitos, and try to destroy the red men. The red men are like mosquitos also, and try to injure the people of Kentucky. But I look to you as to a good being. Order your people to be just. They are always trying to get our lands. They come on our lands, they hunt on them; kill our game, and kill us. Keep them then on one side of the line, and us on the other. Listen, father, to what we say, and protect the nations of the Wabash and Mississippi in their lands.

The English have often spoken to me, but I shut my ears to them. I despise their money, it is nothing to me. I am attached to my lands. I love to eat in tranquillity, and not like a bird on a bough.

The Piankeshaws, Wyattanons, Wiaws, and all the Indians of the Mississippi and Wabash, pray you to open your heart and ears to them, and as you befriend them, to give them Captain Prior for their father. We love him, men, women, and children of us. He has always been friendly to us, always taken care of us, and you cannot give us a better proof of your friendship than in leaving him with us.

[Here Three-Legs handed round the white pipe to be smoked.] De Coigne, then, taking a third pipe, proceeded:

This pipe, my father, is sent you by the great chief of all the Wiaws, called Crooked-Legs. He is old, infirm, and cannot walk, therefore is not come. But he prays you to be his friend, and to take care of his people. He tells you there are many red people jealous of you, but you need not fear them. If he could have walked he would have come; but he is old and sick, and cannot walk. The English have a sugar mouth, but Crooked-Legs would never listen to them. They threatened us to send the red men to cut off him and his people, and they sent the red men who threatened to do it, unless he would join the English. But he would not join them.

The chiefs of the Wabash, father, pray you to listen. They send you this pipe from afar. Keep your children quiet at the Falls of Ohio. We know you are the head of all. We appeal to you. Keep the Americans on one side of the Ohio, from the falls downwards, and us on the other; that we may have something to live on according to your agreement in the treaty which you have. And do not take from the French the lands we have given them.

Old Crooked-Legs sends you this pipe, [here he presented it,] and he prays you to send him Captain Prior for his father, for he is old, and you ought to do this for him.

Father,—I pray you to listen. So far I have spoken for others, and now will speak for myself. I am of Kaskaskia, and have always been a good American from my youth upwards. Yet the Kentuckians take my lands, eat my stock, steal my horses, kill my game, and abuse our persons. I come far with all these people. My nation is not numerous. No people ca.

fight against you father, but the Great God himself. All the red men together cannot do it; but have pity on us. I am now old. Do not let the Kentuckians take my lands nor injure me, but give me a line to them to let me alone.

Father,—The Wyattanons, Piankeshaws, Piorias, Powtewatamies, Mosquitoes, Kaskaskias, have now made a road to you. It is broad and white. Take care of it then, and keep it open.

Father,—You are powerful. You said you would wipe away our tears. We thank you for this. Be firm, and take care of your children.

The hatchet has been long buried. I have been always for peace. I have done what I could, given all the money I had to procure it.

The half of my heart, father, is black. I brought the Piorias to you. Half of them are dead. I fear they will say it was my fault; but, father, I look upon you, my heart is white again, and I smile.

The Shawanese, the Delawares, and the English, are always persuading us to take up the hatchet against you, but I have been always deaf to their words. [Here he gave a belt.]

Great Joseph who came with us is dead. Have compassion on his niece, his son-in-law, and his chiefs, [pointing to them.] It is a dead man who speaks to you, father; accept, therefore, these black beads. [Here he presented several strands of dark colored beads.] I have now seen General Washington, I salute and regard him next after the Great Spirit.

Como, a Powtewatamy chief, then said, that as the President had already been long detained, and the hour was advanced, he would resume what he had to say at another day.

Shawas, the Little Doe, a Kickapou chief, though very sick, had attended the conference, and now carried the pipe round to be smoked. He then addressed the President.

Father,—I am still very ill, and unable to speak. I am a Kickapou, and drink of the waters of the Wabash and Mississippi. I have been to the Wabash and treatied with General Putnam, and I came not to do ill, but to make peace. Send to us Captain Prior to be our father, and no other. He possesses all our love.

Father,—I am too ill to speak. You will not forget what the others have said.

February 2.—The day being cloudy, the Indians did not choose to meet.

February 4.—The morning was cloudy, they gave notice that if it should clear up they would attend at the President's at 2 o'clock. Accordingly, the clouds having broke away about noon, they attended a little after 2, except Shawas and another, who were sick, and one woman.

Como, a Powtewatamy chief, spoke.

Father,—I am opening my heart to speak to you, open yours to receive my words. I first address you from a dead chief, who when he was about to die, called us up to him and charged us never to part with our lands. So I have done for you, my children, and so do you for yours. For what have we come so far? Not to ruin our nation, nor yet that we might carry goods home to our women and children; but to procure them lasting good, to open a road between them and the whites, solicit our father to send Captain Prior to us. He has taken good care of us, and we all love him.

Now, Father, I address you for our young people, but there remains not much to say, for I spoke to you through General Putnam, and you have what I said on paper. I have buried the hatchet forever, so must your children. I speak the truth, and you must believe me. We all pray you to send Captain Prior to us, because he has been so very kind to us all. [Here he delivered strands of dark colored beads.]

Father,—Hear me and believe me. I speak the truth, and from my heart; receive my words then into yours. I am come from afar for the good of my women and children, for their present and future good. When I was at home in the midst of them, my heart sunk within me, I saw no hope for them. The heavens were gloomy and lowering, and I could not tell why. But General Putnam spoke to us, and called us together. I rejoiced to hear him, and determined immediately to come and see my father. Father, I am happy to see you. The heavens have cleared away, the day is bright, and I rejoice to hear your

voice. These beads [holding up a bundle of white strands] are a road between us. Take you hold at one end, I will at the other, and hold it fast. I will visit this road every day, and sweep it clean. If any blood be on it, I will cover it up; if stumps, I will cut them out. Should your children and mine meet in this road they shall shake hands and be good friends. Some of the Indians who belong to the English will be trying to sow harm between us, but we must be on our guard and prevent it.

Father,—I love the land on which I was born, the trees which cover it, and the grass growing on it. It feeds us well. I am not come here to ask gifts. I am young, and by hunting on my own land, can kill what I want and feed my women and children in plenty. I come not to beg. But if any of your traders would wish to come among us, let them come. For who will hurt them? Nobody, I will be there before them.

Father,—I take you by the hand with all my heart. I will never forget you; do not you forget me.

[Here he delivered the bundle of white strands.]

The Little Beaver, a Wyattanon, on the behalf of Crooked-Legs, handed round the pipe, and then spoke.

Father,—Listen now to me as you have done to others. I am not a very great chief; I am a chief of war, and leader of the young people.

Father,—I wished much to hear you; you have spoken comfort to us, and I am happy to have heard it. The sun has shone out, and all is well. This makes us think it was the Great Spirit speaking truth through you. Do then what you have said, restrain your people if they do wrong, as we will ours if they do wrong.

Father,—We gave to our friend (Prior) who came with us, our name of Wyattanon, and he gave us his name ot American. We are now Americans, give him then unto us as a father. He has loved us and taken care of us. He had pity on our women and children, and fed them. Do not forget to grant us this request. You told us to live in quiet, and to do right. We will do what you desire, and let Prior come to us.

Now that we have come so far to hear you, write a line to your people to keep the river open between us, that we may go down in safety, and that our women and children may work in peace. When I go back, I will bear to them good tidings, and our young men will no longer hunt in fear for the support of our women and children.

Father,—All of us who have heard you are made happy, all are in the same sentiment with me, all are satisfied. Be assured that, when we return, the Indians and Americans will be one people, will hunt, and play, and laugh together. For me, I never will depart one step from Prior. We are come from afar to make a stable peace, to look forward to our future good. Do not refuse what we solicit, we will never forget you.

Here I will cease. The father of life might otherwise think I babbled too much, and so might you. I finish then, in giving you this pipe. It is my own, and from myself alone. I am but a warrior. I give it to you to smoke in. Let its fumes ascend to the Great Spirit in heaven.

[He delivered the pipe to the President.]

The wife of the soldier, a Wyattanon, speaks:

Father,—I take you by the hand with all my heart because you have spoken comfort to us. I am but a woman, yet you must listen.

The village chiefs, and chiefs of war, have opened their bodies and laid naked their hearts to you. Let them too see your heart and listen to them.

We have come, men and women, from afar to beseech you to let no one take our lands. That is one of our children, [pointing to General Putnam.] It was he who persuaded us to come. We thought he spoke the truth, we came, and we hope that good will come of it.

Father,—We know you are strong, have pity on us. Be firm in your words. They have given us courage. The father of life has opened our hearts on both sides for good.

He who was to have spoken to you is dead, Great Joseph. If he had lived you would have heard a good man, and good words flowing from his mouth. He was my uncle, and it has fallen to

me to speak for him. But I am ignorant. Excuse, then, these words, it is but a woman who speaks.

[She delivers white strands.]

Three-Legs, a Piankeshaw spoke.

I speak for a young chief whom I have lost here. He came to speak to you, father, but he had not that happiness. He died. I am not a village chief, but only a chief of war.

We are come to seek all our good, and to be firm in it. If our father is firm, we will be so. It was a dark and gloomy day in which I lost my young chief. The master of life saw that he was good, and called him to himself. We must submit to his will. [He gave a black strand.] I pray you all who are present to say, as one man, that our peace is firm, and to let it be firm. Listen to us if you love us. We live on the river on one side, and shall be happy to see Captain Prior on the other, and to have a lasting peace. Here is our father Putnam. He heard me speak at Au Porte. If I am false let him say so.

My land is but small. If any more be taken from us, I will come again to you and complain, for we shall not be able to live. Have pity on us father. You have many red children there, and they have little whereon to live. Leave them land enough to labor, to hunt, and to live on, and the lands which we have given to the French, let them be to them forever.

Father,—We are very poor, we have traders among us, but they will sell too dear. We have not the means of supplying our wants at such prices. Encourage your traders then to come, and to bring us guns, powder, and other necessaries, and send Captain Prior also to us.

[He gave a string of white beads.] De Coigne spoke:

Jefferson, I have seen you before, and we have spoken together. Sinclair, we have opened our hearts to one another. Putnam, we did the same at Au Porte.

Father,—You have heard these three speak of me, and you know my character. The times are gloomy in my town. We have no commander, no soldier, no priest. Have you no concern for us, father? If you have, put a magistrate with us to keep the peace. I cannot live so. I am of French blood. When

there are no priests among us we think that all is not well. When I was small we had priests, now that I am old we have none; am I to forget, then, how to pray? Have pity on me and grant what I ask. I have spoken on your behalf to all the nations. I am a friend to all, and hurt none. For what are we on this earth? But as a small and tender plant of corn; even as nothing. God has made this earth for you as well as for us; we are then but as one family, and if any one strikes you, it is as if he had struck us. If any nation strikes you, father, we will let you know what nation it is.

Father,—We fear the Kentuckians. They are headstrong, and do us great wrong. They are not content to come on our lands, to hunt on them, to steal and destroy our stocks, as the Shawanese and Delawares do, but they go further, and abuse our persons. Forbid them to do so. Sinclair, you know that the Shawanese and Delawares came from the Spanish side of the river, destroyed our corn, and killed our cattle. We cannot live if things go so.

Father,—You are rich, you have all things at command, you want for nothing, you promised to wipe away our tears. I commend our women and children to your care.

[He gave strands of white beads.]

The President then assured them that he would take in consideration what they had said, and would give them an answer on another day; whereupon the conference ended for the present.

III.

January 7, 1802.

Brothers and friends of the Miamis, Powtewatamies, and Weeauks:—

I receive with great satisfaction the visit you have been so kind as to make us at this place, and I thank the Great Spirit who has conducted you to us in health and safety. It is well that friends should sometimes meet, open their minds mutually, and renew the chain of affection. Made by the same Great Spirit,

and living in the same land with our brothers, the red men, we consider ourselves as of the same family; we wish to live with them as one people, and to cherish their interests as our own. The evils which of necessity encompass the life of man are sufficiently numerous. Why should we add to them by voluntarily distressing and destroying one another? Peace, brothers, is better than war. In a long and bloodly war, we lose many friends, and gain nothing. Let us then live in peace and friendship together, doing to each other all the good we can. The wise and good on both sides desire this, and we must take care that the foolish and wicked among us shall not prevent it. On our part, we shall endeavor in all things to be just and generous towards you, and to aid you in meeting those difficulties which a change of circumstances is bringing on. We shall, with great pleasure, see your people become disposed to cultivate the earth, to raise herds of the useful animals, and to spin and weave, for their food and clothing. These resources are certain; they will never disappoint you: while those of hunting may fail, and expose your women and children to the miseries of hunger and cold. We will with pleasure furnish you with implements for the most necessary arts, and with persons who may instruct you how to make and use them.

I consider it as fortunate that you have made your visit at this time, when our wise men from the sixteen States are collected together in council, who being equally disposed to befriend you, can strengthen our hands in the good we all wish to render you.

The several matters you opened to us in your speech the other day, and those on which you have since conversed with the Secretary of War, have been duly considered by us. He will now deliver answers, and you are to consider what he says, as if said by myself, and that what we promise we shall faithfully perform.

IV.

February 10, 1802.

Brothers of the Delaware and Shawanee nations :—

I thank the Great Spirit that he has conducted you hither in health and safety, and that we have an opportunity of renewing our amity, and of holding friendly conference together. It is a circumstance of great satisfaction to us that we are in peace and good understanding with all our red brethren, and that we discover in them the same disposition to continue so which we feel ourselves. It is our earnest desire to merit, and possess their affections, by rendering them strict justice, prohibiting injury from others, aiding their endeavors to learn the culture of the earth, and to raise useful animals, and befriending them as good neighbors, and in every other way in our power. By mutual endeavors to do good to each other, the happiness of both will be better promoted than by efforts of mutual destruction. We are all created by the same Great Spirit ; children of the same family. Why shouuld we not live then as brothers ought to do ?

I am peculiarly gratified by receiving the visit of some of your most ancient and greatest warriors, of whom I have heard much good. It is a long journey which they have taken at their age, and in this season, and I consider it as a proof that their affections for us are sincere and strong. I hope that the young men, who have come with them, to make acquaintance with us, judging our dispositions towards them by what they see themselves, and not what they may hear from others, will go hand in hand with us, through life, in the cultivation of mutual peace, friendship, and good offices.

The speech which the Blackhoof delivered us, in behalf of your nation, has been duly considered. The answer to all its particulars will now be delivered you by the Secretary of War. Whatever he shall say, you may consider as if said by myself, and that what he promises our nation will perform.

V.

WASHINGTON, November 3, 1802

To Brother Handsome Lake:—

I have received the message in writing which you sent me through Captain Irvine, our confidential agent, placed near you for the purpose of communicating and transacting between us, whatever may be useful for both nations. I am happy to learn you have been so far favored by the Divine spirit as to be made sensible of those things which are for your good and that of your people, and of those which are hurtful to you; and particularly that you and they see the ruinous effects which the abuse of spirituous liquors have produced upon them. It has weakened their bodies, enervated their minds, exposed them to hunger, cold, nakedness, and poverty, kept them in perpetual broils, and reduced their population. I do not wonder then, brother, at your censures, not only on your own people, who have voluntarily gone into these fatal habits, but on all the nations of white people who have supplied their calls for this article. But these nations have done to you only what they do among themselves. They have sold what individuals wish to buy, leaving to every one to be the guardian of his own health and happiness. Spirituous liquors are not in themselves bad, they are often found to be an excellent medicine for the sick; it is the improper and intemperate use of them, by those in health, which makes them injurious. But as you find that your people cannot refrain from an ill use of them, I greatly applaud your resolution not to use them at all. We have too affectionate a concern for your happiness to place the paltry gain on the sale of these articles in competition with the injury they do you. And as it is the desire of your nation, that no spirits should be sent among them, I am authorized by the great council of the United States to prohibit them. I will sincerely cöoperate with your wise men in any proper measures for this purpose, which shall be agreeable to them.

You remind me, brother, of what I said to you, when you visited me the last winter, that the lands you then held would

remain yours, and shall never go from you but when you should be disposed to sell. This I now repeat, and will ever abide by. We, indeed, are always ready to buy land ; but we will never ask but when you wish to sell; and our laws, in order to protect you against imposition, have forbidden individuals to purchase lands from you; and have rendered it necessary, when you desire to sell, even to a State, that an agent from the United States should attend the sale, see that your consent is freely given, a satisfactory price paid, and report to us what has been done, for our approbation. This was done in the late case of which you complain. The deputies of your nation came forward, in all the forms which we have been used to consider as evidence of the will of your nation. They proposed to sell to the State of New York certain parcels of land, of small extent, and detached from the body of your other lands; the State of New York was desirous to buy. I sent an agent, in whom we could trust, to see that your consent was free, and the sale fair. All was reported to be free and fair. The lands were your property. The right to sell is one of the rights of property. To forbid you the exercise of that right would be a wrong to your nation. Nor do I think, brother, that the sale of lands is, under all circumstances, injurious to your people. While they depended on hunting, the more extensive the forest around them, the more game they would yield. But going into a state of agriculture, it may be as advantageous to a society, as it is to an individual, who has more land than he can improve, to sell a part, and lay out the money in stocks and implements of agriculture, for the better improvement of the residue. A little land well stocked and improved, will yield more than a great deal without stock or improvement. I hope, therefore, that on further reflection, you will see this transaction in a more favorable light, both as it concerns the interest of your nation, and the exercise of that superintending care which I am sincerely anxious to employ for their subsistence and happiness. Go on then, brother, in the great reformation you have undertaken. Persuade our red brethren then to be sober, and to cultivate their lands ; and their women to spin and weave for their families. You will soon see your women and

children well fed and clothed, your men living happily in peace and plenty, and your numbers increasing from year to year. It will be a great glory to you to have been the instrument of so happy a change, and your children's children, from generation to generation, will repeat your name with love and gratitude forever. In all your enterprises for the good of your people, you may count with confidence on the aid and protection of the United States, and on the sincerity and zeal with which I am myself animated in the furthering of this humane work. You are our brethren of the same land; we wish your prosperity as brethren should do. Farewell.

VI.

January 8, 1803.

Brothers Miamis and Delawares :—

I am happy to see you here, to take you by the hand, and to renew the assurances of our friendship. The journey which you have taken is long; but it leads to a right understanding of what either of us may have misunderstood; it will be useful for all. For, living in the same land, it is best for us all that we should live together in peace, friendship, and good neighborhood.

I have taken into serious consideration the several subjects on which you spoke to me the other day, and will now proceed to answer them severally.

You know, brothers, that, in ancient times, your former fathers the French settled at Vincennes, and lived and traded with your ancestors, and that those ancestors ceded to the French a tract of country, on the Wabash river, seventy leagues broad, and extending in length from Point Coupee to the mouth of White river. The French, at the close of a war between them and the English, ceded this country to the English; who, at the close of a war between them and us, ceded it to us. The remembrance of these transactions is well preserved among the white people; they have been acknowledged in a deed signed by your fathers; and you also, we suppose, must have heard it from them. Sin-

cerely desirous to live in peace and brotherhood with you, and that the hatchet of war may never again be lifted, we thought it prudent to remove from between us whatever might at any time produce misunderstanding. The unmarked state of our boundaries, and mutual trespasses on each others' lands, for want of their being known to all our people, have at times threatened our peace. We therefore instructed Governor Harrison to call a meeting of the chiefs of all the Indian nations around Vincennes, and to propose that we should settle and mark the boundary between us. The chiefs of these nations met. They appeared to think hard that we should claim the whole of what their ancestors had ceded and sold to the white men, and proposed to mark off for us from Point Coupee to the mouth of White river, a breadth of twenty-four leagues only, instead of seventy. His offer was a little more than a third of our right. But the desire of being in peace and friendship with you, and of doing nothing which should distress you, prevailed in our minds, and we agreed to it. This was the act of the several nations, original owners of the soil, and by men duly authorized by the body of those nations. You, brothers, seem not to have been satisfied with it. But it is a rule in all countries that what is done by the body of a nation must be submitted to by all its members. We have no right to alter, on a partial deputation, what we have settled by treaty with the body of the nations concerned. The lines too, which are agreed on, are to be run and marked in the presence of your chiefs, who will see that they are fairly run. Your nations were so sensible of the moderation of our conduct towards them, that they voluntarily offered to lend us forever the salt springs, and four miles square of land near the mouth of the Wabash, without price. But we wish nothing without price. And we propose to make a reasonable addition to the annuity we pay to the owners.

You complain that our people buy your lands individually, and settle and hunt on them without leave. To convince you of the care we have taken to guard you against the injuries and arts of interested individuals, I now will give you a copy of a law, of our great council the Congress, forbidding individuals to

buy lands from you, or to settle or hunt on your lands; and making them liable to severe punishment. And if you will at any time seize such individuals, and deliver them to any officer of the United States, they will be punished according to law.

We have long been sensible, brothers, of the great injury you receive from an immoderate use of spirituous liquors; and although it be profitable to us to make and sell these liquors, yet we value more the preservation of your health and happiness. Heretofore we apprehended you would be displeased, were we to withhold them from you. But leaving it to be your desire, we have taken measures to prevent their being carried into your country; and we sincerely rejoice at this proof of your wisdom. Instead of spending the produce of your hunting in purchasing this pernicious drink, which produces poverty, broils and murders, it will now be employed in procuring food and clothing for your families, and increasing instead of diminishing your numbers.

You have proposed, brothers, that we should deduct from your next year's annuity, the expenses of your journey here; but this would be an exactness we do not practise with our red brethren. We will bear with satisfaction the expenses of your journey, and of whatever is necessary for your personal comfort; and will not, by deducting them, lessen the amount of the necessaries which your women and children are to receive the next year.

From the same good will towards you, we shall be pleased to see you making progress in raising stock and grain, and making clothes for yourselves. A little labor in this way, performed at home and at ease, will go further towards feeding and clothing you, than a great deal of labor in hunting wild beasts.

In answer to your request of a smith to be stationed in some place convenient to you, I can inform you that Mr. Wells, our agent, is authorized to make such establishments, and also to furnish you with implements of husbandry and manufacture, whenever you shall be determined to use them. The particulars on this subject, as well as of some others mentioned in your speech, and in the written speech you brought me from Buckangalah

and others, will be communicated and settled with you by the Secretary at War. And I shall pray you in your return, to be the bearers to your countrymen and friends of assurances of my sincere friendship, and that our nation wishes to befriend them in everything useful, and to protect them against all injuries committed by lawless persons from among our citizens, either on their lands, their lives or their property.

VII.

December 17. 1803.

Brothers of the Choctaw nation :—

We have long heard of your nation as a numerous, peaceable, and friendly people; but this is the first visit we have had from its great men at the seat of our government. I welcome you here; am glad to take you by the hand, and to assure you, for your nation, that we are their friends. Born in the same land, we ought to live as brothers, doing to each other all the good we can, and not listening to wicked men, who may endeavor to make us enemies. By living in peace, we can help and prosper one another; by waging war, we can kill and destroy many on both sides; but those who survive will not be the happier for that. Then, brothers, let it forever be peace and good neighborhood between us. Our seventeen States compose a great and growing nation. Their children are as the leaves of the trees, which the winds are spreading over the forest. But we are just also. We take from no nation what belongs to it. Our growing numbers make us always willing to buy lands from our red brethren, when they are willing to sell. But be assured we never mean to disturb them in their possessions. On the contrary, the lines established between us by mutual consent, shall be sacredly preserved, and will protect your lands from all encroachments by our own people or any others. We will give you a copy of the law, made by our great Council, for punishing our people, who may encroach on your lands, or injure you otherwise. Carry it with you to your homes, and preserve it,

as the shield which we spread over you, to protect your land, your property and persons.

It is at the request which you sent me in September, signed by Puckshanublee and other chiefs, and which you now repeat, that I listen to your proposition to sell us lands. You say you owe a great debt to your merchants, that you have nothing to pay it with but lands, and you pray us to take lands, and pay your debt. The sum you have occasion for, brothers, is a very great one. We have never yet paid as much to any of our red brethren for the purchase of lands. You propose to us some on the Tombigbee, and some on the Mississippi. Those on the Mississippi suit us well. We wish to have establishments on that river, as resting places for our boats, to furnish them provisions, and to receive our people who fall sick on the way to or from New Orleans, which is now ours. In that quarter, therefore, we are willing to purchase as much as you will spare. But as to the manner in which the line shall be run, we are not judges of it here, nor qualified to make any bargain. But we will appoint persons hereafter to treat with you on the spot, who, knowing the country and quality of the lands, will be better able to agree with you on a line which will give us a just equivalent for the sum of money you want paid.

You have spoken, brothers, of the lands which your fathers formerly sold and marked off to the English, and which they ceded to us with the rest of the country they held here; and you say that, though you do not know whether your fathers were paid for them, you have marked the line over again for us, and do not ask repayment. It has always been the custom, brothers, when lands were bought of the red men, to pay for them immediately, and none of us have ever seen an example of such a debt remaining unpaid. It is to satisfy their immediate wants that the red men have usually sold lands; and in such a case, they would not let the debt be unpaid. The presumption from custom then is strong; so it is also from the great length of time since your fathers sold these lands. But we have, moreover, been informed by persons now living, and who assisted the English in making the purchase, that the price was paid at the

time. Were it otherwise, as it was their contract, it would be their debt, not ours.

I rejoice, brothers, to hear you propose to become cultivators of the earth for the maintenance of your families. Be assured you will support them better and with less labor, by raising stock and bread, and by spinning and weaving clothes, than by hunting. A little land cultivated, and a little labor, will procure more provisions than the most successful hunt; and a woman will clothe more by spinning and weaving, than a man by hunting. Compared with you, we are but as of yesterday in this land. Yet see how much more we have multiplied by industry, and the exercise of that reason which you possess in common with us. Follow then our example, brethren, and we will aid you with great pleasure.

The clothes and other necessaries which we sent you the last year, were, as you supposed, a present from us. We never meant to ask land or any other payment for them; and the store which we sent on, was at your request also; and to accommodate you with necessaries at a reasonable price, you wished of course to have it on your land; but the land would continue yours, not ours.

As to the removal of the store, the interpreter, and the agent, and any other matters you may wish to speak about, the Secretary at War will enter into explanations with you, and whatever he says, you may consider as said by myself, and what he promises you will be faithfully performed.

I am glad, brothers, you are willing to go and visit some other parts of our country. Carriages shall be ready to convey you, and you shall be taken care of on your journey; and when you shall have returned here and rested yourselves to your own mind, you shall be sent home by land. We had provided for your coming by land, and were sorry for the mistake which carried you to Savannah instead of Augusta, and exposed you to the risks of a voyage by sea. Had any accident happened to you, though we could not help it, it would have been a cause of great mourning to us. But we thank the Great Spirit who took care of you on the ocean, and brought you safe and in good health

to the seat of our great Council; and we hope His care will accompany and protect you, on your journey and return home; and that He will preserve and prosper your nation in all its just pursuits.

VIII.

My Children, White-hairs, Chiefs, and Warriors of the Osage Nation:—

I repeat to you assurances of the satisfaction it gives me to receive you here. Besides the labor of such a journey, the confidence you have shown in the honor and friendship of my countrymen is peculiarly gratifying, and I hope you have seen that your confidence was justly placed, that you have found yourselves, since you crossed the Mississippi, among brothers and friends, with whom you were as safe as at home.

My Children,—I sincerely weep with you over the graves of your chiefs and friends, who fell by the hands of their enemies lately descending the Osage river. Had they been prisoners, and living, we would have recovered them. But no voice can awake the dead; no power undo what is done. On this side the Mississippi, where our government has been long established, and our authority organized, our friends visiting us are safe. We hope it will not be long before our voice will be heard and our arm respected, by those who meditate to injure our friends on the other side of that river. In the meantime, Governor Harrison will be directed to take proper measures to inquire into the circumstances of the transaction, to report them to us for consideration, and for the further measures they may require.

My Children,—By late arrangements with France and Spain, we now take their place as your neighbors, friends, and fathers; and we hope you will have no cause to regret the change. It is so long since our forefathers came from beyond the great water, that we have lost the memory of it, and seem to have grown out of this land, as you have done. Never more will you have occasion to change your fathers. We are all now of one family,

born in the same land, and bound to live as brothers; and the strangers from beyond the great water are gone from among us. The Great Spirit has given you strength, and has given us strength; not that we might hurt one another, but to do each other all the good in our power. Our dwellings, indeed, are very far apart, but not too far to carry on commerce and useful intercourse. You have furs and peltries which we want, and we have clothes and other useful things which you want. Let us employ ourselves, then, in mutually accommodating each other. To begin this on our part, it was necessary to know what nations inhabited the great country called Louisiana, which embraces all the waters of the Mississippi and Missouri, what number of peltries they could furnish, what quantities and kind of merchandize they would require, where would be the deposits most convenient for them, and to make an exact map of all those waters. For this purpose I sent a beloved man, Captain Lewis, one of my own household, to learn something of the people with whom we are now united, to let you know we were your friends, to invite you to come and see us, and to tell us how we can be useful to you. I thank you for the readiness with which you have listened to his voice, and for the favor you have showed him in his passage up the Missouri. I hope your countrymen will favor and protect him as far as they extend. On his return we shall hear what he has seen and learnt, and proceed to establish trading houses where our red brethren shall think best, and to exchange commodities with them on terms with which they will be satisfied.

With the same views I had prepared another party to go up the Red River to its source, thence to the source of the Arkansas, and down it to its mouth. But I will now give orders that they shall only go a small distance up the Red River this season, and return to tell us what they have seen, and that they shall not set out for the head of that river till the ensuing spring, when you will be at home, and will, I hope, guide and guard them in their journey. I also propose the next year to send another small party up the river of the Kansas to it source, thence to the head of the river of the Panis, and down to its mouth; and others up

the rivers on the north side of the Missouri. For guides along these rivers, we must make arrangements with the nations inhabiting them.

My Children,—I was sorry to learn that a schism had taken place in your nation, and that a part of your people had withdrawn with the Great-Track to the Arkansas river. We will send an agent to them, and will use our best offices to induce them to return, and to live in union with you. We wish to make them also our friends, and to make that friendship, and the weight it may give us with them, useful to you and them.

We propose, my children, immediately to establish an agent to reside with you, who will speak to you our words, and convey yours to us, who will be the guardian of our peace and friendship, convey truths from one to the other, dissipate all falsehoods which might tend to alienate and divide us, and maintain a good understanding and friendship between us. As the distance is too great for you to come often and tell us your wants, you will tell them to him on the spot, and he will convey them to us in writing, so that we shall be sure that they come from you. Through the intervention of such an agent we shall hope that our friendship will forever be preserved. No wrong will ever be done you by our nation, and we trust that yours will do none to us. And should ungovernable individuals commit unauthorized outrage on either side, let them be duly punished; or if they escape, let us make to each other the best satisfaction the case admits, and not let our peace be broken by bad men. For all people have some bad men among them, whom no laws can restrain.

As you have taken so long a journey to see your father, we wish you not to return till you shall have visited our country and towns toward the sea coast. This will be new and satisfactory to you, and it will give you the same knowledge of the country on this side the Mississippi, which we are endeavoring to acquire of that on the other side, by sending trusty persons to explore them. We propose to do in your country only what we are desirous you should do in ours. We will provide accommodations for your journey, for your comfort while engaged in it,

and for your return in safety to your own country, carrying with you those proofs of esteem with which we distinguish our friends, and shall particularly distinguish you. On your return tell your people that I take them all by the hand; that I become their father hereafter; that they shall know our nation only as friends and benefactors; that we have no views upon them but to carry on a commerce useful to them and us; to keep them in peace with their neighbors, that their children may mutiply, may grow up and live to a good old age, and their women no more fear the tomahawk of any enemy.

My children, these are my words, carry them to your nation, keep them in your memories, and our friendship in your hearts, and may the Great Spirit look down upon us and cover us with the mantle of his love.

IX.

March 7, 1705.

My Children, Chiefs of the Chickasaw nation, Minghey, Mataha, and Tishohotana :—

I am happy to receive you at the seat of the government of the twenty-two nations, and to take you by the hand. Your friendship to the Americans has long been known to me. Our fathers have told us that your nation never spilled the blood of an American, and we have seen you fighting by our side and cementing our friendship by mixing our blood in battle against the same enemies. I rejoice, therefore, that the Great Spirit has covered you with his protection through so long a journey and so inclement a season, and brought you safe to the dwelling of a father who wishes well to all his red children, and to you especially. It would have been also pleasing to have received the other chiefs who had proposed to come with you, and to have known and become known to them, had it been convenient for them to come. I have long wished to see the beloved men of your nation, to renew the friendly conferences of former times, to assure them that we remain constant in our attachment to them, and to prove it by our good offices.

Your country, like all those on this side the Mississippi, has no longer game sufficient to maintain yourselves, your women and children, comfortably by hunting. We, therefore, wish to see you undertake the cultivation of the earth, to raise cattle, corn, and cotton, to feed and clothe your people. A little labor in the earth will produce more food than the best hunts you can now make, and the women will spin and weave more clothing than the men can procure by hunting. We shall very willingly assist you in this course by furnishing you with the necessary tools and implements, and with persons to instruct you in the use of them.

We have been told that you have contracted a great debt to some British traders, which gives you uneasiness, and which you honestly wish to pay by the sale of some of your lands. Whenever you raise food from the earth, and make your own clothing, you will find that you have a great deal of land more than you can cultivate or make useful, and that it will be better for you to sell some of that, to pay your debts, and to have something over to be paid to you annually to aid you in feeding and clothing yourselves. Your lands are your own, my children, they shall never be taken from you by our people or any others. You will be free to keep or to sell as yourselves shall think most for your own good. If at this time you think it will be better for you to dispose of some of them to pay your debts, and to help your people to improve the rest, we are willing to buy on reasonable terms. Our people multiply so fast, that it will suit us to buy as much as you wish to sell, but only according to your good will. We have lately obtained from the French and Spaniards all the country beyond the Mississippi called Louisiana, in which there is a great deal of land unoccupied by any red men. But it is very far off, and we would prefer giving you lands there, or money and goods as you like best, for such parts of your land on this side the Mississippi as you are disposed to part with. Should you have anything to say on this subject now, or at any future time, we shall be always ready to listen to you.

I am obliged, within a few days, to set out on a long journey; but I wish you to stay and rest yourselves according to your own

convenience. The Secretary at War will take care of you, will have you supplied with whatever you may have occasion for, and will provide for your return at your own pleasure. And I hope you will carry to your countrymen assurances of the sincere friendship of the United States to them, and that we shall always be disposed to render them all the service in our power. This, my children, is all I had proposed to say at this time.

X.

To the Wolf and people of the Mandar nation.

WASHINGTON, December 30, 1806.

My Children, the Wolf and people of the Mandar nation :— I take you by the hand of friendship and give you a hearty welcome to the seat of the government of the United States. The journey which you have taken to visit your fathers on this side of our island is a long one, and your having undertaken it is a proof that you desired to become acquainted with us. I thank the Great Spirit that he has protected you through the journey and brought you safely to the residence of your friends, and I hope He will have you constantly in his safe keeping, and restore you in good health to your nations and families.

My friends and children, we are descended from the old nations which live beyond the great water, but we and our forefathers have been so long here that we seem like you to have grown out of this land. We consider ourselves no longer of the old nations beyond the great water, but as united in one family with our red brethren here. The French, the English, the Spaniards, have now agreed with us to retire from all the country which you and we hold between Canada and Mexico, and never more to return to it. And remember the words I now speak to you, my children, they are never to return again. We are now your fathers; and you shall not lose by the change. As soon as Spain had agreed to withdraw from all the waters of the Missouri and Mississippi, I felt the desire of becoming acquainted with all my red children beyond the Mississippi, and of uniting them with us as we have those on this side of that river, in the bonds of

peace and friendship. I wished to learn what we could do to benefit them by furnishing them the necessaries they want in exchange for their furs and peltries. I therefore sent our beloved man, Captain Lewis, one of my own family, to go up the Missouri river to get acquainted with all the Indian nations in its neighborhood, to take them by the hand, deliver my talks to them, and to inform us in what way we could be useful to them. Your nation received him kindly, you have taken him by the hand and been friendly to him. My children, I thank you for the services you rendered him, and for your attention to his words. He will now tell us where we should establish trading houses to be convenient to you all, and what we must send to them.

My friends and children, I have now an important advice to give you. I have already told you that you and all the red men are my children, and I wish you to live in peace and friendship with one another as brethren of the same family ought to do. How much better is it for neighbors to help than to hurt one another; how much happier must it make them. If you will cease to make war on one another, if you will live in friendship with all mankind, you can employ all your time in providing food and clothing for yourselves and your families. Your men will not be destroyed in war, and your women and children will lie down to sleep in their cabins without fear of being surprised by their enemies and killed or carried away. Your numbers will be increased instead of diminishing, and you will live in plenty and in quiet. My children, I have given this advice to all your red brethren on this side of the Mississippi; they are following it, they are increasing in their numbers, are learning to clothe and provide for their families as we do. Remember then my advice, my children, carry it home to your people, and tell them that from the day that they have become all of the same family, from the day that we became father to them all, we wish, as a true father should do, that we may all live together as one household, and that before they strike one another, they should go to their father and let him endeavor to make up the quarrel.

My children, you are come from the other side of our great island, from where the sun sets, to see your new friends at the

sun rising. You have now arrived where the waters are constantly rising and falling every day, but you are still distant from the sea. I very much desire that you should not stop here, but go and see your brethren as far as the edge of the great water. I am persuaded you have so far seen that every man by the way has received you as his brothers, and has been ready to do you all the kindness in his power. You will see the same thing quite to the sea shore; and I wish you, therefore, to go and visit our great cities in that quarter, and see how many friends and brothers you have here. You will then have travelled a long line from west to east, and if you had time to go from north to south, from Canada to Florida, you would find it as long in that direction, and all the people as sincerely your friends. I wish you, my children, to see all you can, and to tell your people all you see; because I am sure the more they know of us, the more they will be our hearty friends. I invite you, therefore, to pay a visit to Baltimore, Philadelphia, New York, and the cities still beyond that, if you are willing to go further. We will provide carriages to convey you and a person to go with you to see that you want for nothing. By the time you come back the snows will be melted on the mountains, the ice in the rivers broken up, and you will be wishing to set out on your return home.

My children, I have long desired to see you; I have now opened my heart to you, let my words sink into your hearts and never be forgotten. If ever lying people or bad spirits should raise up clouds between us, call to mind what I have said, and what you have seen yourselves. Be sure there are some lying spirits between us; let us come together as friends and explain to each other what is misrepresented or misunderstood, the clouds will fly away like morning fog, and the sun of friendship appear and shine forever bright and clear between us.

My children, it may happen that while you are here occasion may arise to talk about many things which I do not now particularly mention. The Secretary at War will always be ready to talk with you, and you are to consider whatever he says as said by myself. He will also take care of you and see that you are furnished with all comforts here.

XI.

WASHINGTON, December 31, 1806.

To the Chiefs of the Osage nation :—

My Children, Chiefs of the Osage nation,—I welcome you sincerely to the seat of the government of the United States. The journey you have taken is long and fatiguing, and proved your desire to become acquainted with your new brothers of this country. I thank the master of life, who has preserved you by the way and brought you safely here. I hope you have found yourselves, through the whole journey, among brothers and friends, who have used you kindly, and convinced you they wish to live always in peace and harmony with you.

My children, your forefathers have doubtless handed it down to you that in ancient times the French were the fathers of all the red men in the country called Louisiana, that is to say, all the country on the Mississippi and on all its western waters. In the days of your fathers France ceded that country to the Spaniards and they became your fathers ; but six years ago they restored it to France and France ceded it to us, and we are now become your fathers and brothers ; and be assured you will have no cause to regret the change. It is so long since our forefathers came from beyond the great water, that we have lost the memory of it, and seem to have grown out of this land as you have done. Never more will you have occasion to change your fathers. We are all now of one family, born in the same land, and bound to live as brothers, and to have nothing more to do with the strangers who live beyond the great water. The Great Spirit has given you strength and has given us strength, not that we should hurt one another, but to do each other all the good in our power. Our dwellings indeed are very far apart, but not too far to carry on commerce and useful intercourse. You have furs and peltries which we want, and we have clothes and other useful things which you want. Let us employ ourselves, then, in making exchanges of these articles useful to both. In order to prepare ourselves for this commerce with our new children, we have found it necessary to send some of our trusty men up

the different rivers of Louisiana, to see what nations live upon them, what number of peltries they can furnish, what quantities and kinds of merchandize they want, and where are the places most convenient to establish trading houses with them. With this view we sent a party to the head of the Missouri and the great water beyond that, who are just returned. We sent another party up the Red river, and we propose, the ensuing spring, to send one up the Arkansas as far as its head. This party will consist, like the others, of between twenty and thirty persons. I shall instruct them to call and see you at your towns, to talk with my son the Big Track, who, as well as yourselves and your people, will I hope receive them kindly, protect them and give them all the information they can as to the people on the same river above you. When they return they will be able to tell us how we can best establish a trade with you, and how otherwise we can be useful to them.

My children, I was sorry to learn that a difference had arisen among the people of your nation, and that a part of them had separated and removed to a great distance on the Arkansa. This is a family quarrel with which I do not pretend to intermeddle. Both parties are my children, and I wish equally well to both. But it would give me great pleasure if they could again reunite, because a nation, while it holds together, is strong against its enemies, but, breaking into parts, it is easily destroyed. However I hope you will at least make friends again, and cherish peace and brotherly love with one another. If I can be useful in restoring friendship between you, I shall do it with great pleasure. It is my wish that all my red children live together as one family, that when differences arise among them, their old men should meet together and settle them with justice and in peace. In this way your women and children will live in safety, your nation will increase and be strong.

As you have taken so long a journey to see your fathers, we wish you not to return till you have visited our country and towns towards the sea coast. This will be new and satisfactory to you, and it will give you the same knowledge of the country on this side of the Mississippi, which we are endeavoring to ac-

quire of that on the other side, by sending trusty persons to explore them. We propose to do in your country only what we are desirous you should do in ours. We will provide accommodations for your journey, for your comfort while engaged in it, and for your return in safety to your own country, carrying with you these proofs of esteem with which we distinguish our friends, and shall particularly distinguish you. On your return, tell your chief, the Big Track, and all your people, that I take them by the hand, that I become their father hereafter, that they shall know our nation only as friends and benefactors, that we have no views upon them but to carry on a commerce useful to them and us, to keep them in peace with their neighbors, that their children may multiply, may grow up and live to a good old age, and their women no longer fear the tomahawk of any enemy.

My children, these are my words, carry them to your nation, keep them in your memories and our friendship in your hearts, and may the Great Spirit look down upon us and cover us with the mantle of his love.

XII.

February 19, 1807.

To the Chiefs of the Shawanee Nation :—

My children, Chiefs of the Shawanee nation,—I have listened to the speeches of the Blackhoof, Blackbeard, and the other head chiefs of the Shawanese, and have considered them well. As all these speeches relate to the public affairs of your nation, I will answer them together.

You express a wish to have your lands laid off separately to yourselves, that you may know what is your own, may have a fixed place to live on, of which you may not be deprived after you shall have built on it, and improved it; you would rather that this should be towards Fort Wayne, and to include the three reserves; you ask a strong writing from us, declaring your right, and observe that the writing you had was taken from you by the Delawares.

After the close of our war with the English, we wished to establish peace and friendship with our Indian neighbors also. In order to do this, the first thing necessary was to fix a firm boundary between them and us, that there might be no trespasses across that by either party. Not knowing then what parts on our border belonged to each Indian nation particularly, we thought it safest to get all those in the north to join in one treaty, and to settle a general boundary line between them and us. We did not intermeddle as to the lines dividing them one from another, because this was their concern, not ours. We therefore met the chiefs of the Wyandots, Delawares, Shawanese, Ottaways, Chippeways, Powtewatamies, Miamis, Eel-Rivers, Weaks, Kickapoos, Pianteshaws, and Kaskaskies, at Greeneville, and agreed on a general boundary which was to divide their lands from those of the whites, making only some particular reserves, for the establishment of trade and intercourse with them. This treaty was eleven years ago, as Blackbeard has said. Since that, some of them have thought it for their advantage to sell us portions of their lands, which has changed the boundaries in some parts; but their rights in the residue remain as they were, and must always be settled among themselves. If the Shawanese and Delawares, and their other neighbors, choose to settle the boundaries between their respective tribes, and to have them marked and recorded in our books, we will mark them as they shall agree among themselves, and will give them strong writings declaring the separate right of each. After which, we will protect each tribe in its respective lands, as well as against other tribes who might attempt to take them from them, as against our own people. The writing which you say the Delawares took from you, must have been the copy of the treaty of Greeneville. We will give you another copy to be kept by your nation.

With respect to the reserves, you know they were made for the purpose of establishing convenient stations for trade and intercourse with the tribes within whose boundaries they are. And as circumstances shall render it expedient to make these establishments, it is for your interest, as well as ours, that the possession of these stations should enable us to make them.

You complain that Blue-jacket, and a part of your people at Greeneville, cheat you in the distribution of your annuity, and take more of it than their just share. It will be difficult to remedy this evil while your nation is living in different settlements. We will, however, direct our agent to enquire, and inform us what are your numbers in each of your settlements, and will then divide the annuities between the settlements justly, according to their numbers. And if we can be of any service in bringing you all together into one place, we will willingly assist you for that purpose. Perhaps your visit to the settlement of your people on the Mississippi under the Flute may assist towards gathering them all into one place from which they may never again remove.

You say that you like our mode of living, that you wish to live as we do, to raise a plenty of food for your children, and to bring them up in good principles; that you adopt our mode of living, and ourselves as your brothers. My children, I rejoice to hear this; it is the wisest resolution you have ever formed, to raise corn and domestic animals, by the culture of the earth, and to let your women spin and weave clothes for you all, instead of depending for these on hunting. Be assured that half the labor and hardships you go through to provide your families by hunting, with food and clothing, if employed in a farm would feed and clothe them better. When the white people first came to this land, they were few, and you were many: now we are many, and you few; and why? because, by cultivating the earth, we produce plenty to raise our children, while yours, during a part of every year, suffer for want of food, are forced to eat unwholesome things, are exposed to the weather in your hunting camps, get diseases and die. Hence it is that your numbers lessen.

You ask for instruction in our manner of living, for carpenters and blacksmiths. My children, you shall have them. We will do everything in our power to teach you to take care of your wives and children, that you may multiply and be strong. We are sincerely your friends and brothers, we are as unwilling to see your blood spilt in war, as our own. Therefore, we encour-

age you to live in peace with all nations, that your women and children may live without danger, and without fear. The greatest honor of a man is in doing good to his fellow men, not in destroying them. We have placed Mr. Kirk among you, who will have other persons under him to teach you how to manage farms, and to make clothes for yourselves; and we expect you will put some of your young people to work with the carpenters and smiths we place among you, that they may learn the trades. In this way only can you have a number of tradesmen sufficient for all your people.

You wish me to name to you the person authorized to speak to you in our name, that you may know whom to believe, and not be deceived by impostors. My children, Governor Harrison is the person we authorize to talk to you in our name. You may depend on his advice, and that it comes from us. He stands between you and us, to convey with truth whatever either of us wishes to say to the other.

My children, I wish you a safe return to your friends and families, that you may retain your resolution of learning to live in our way, that it may give health and comfort to your families, and add members to your nation. In me you will always find a sincere and true friend.

XIII.

WASHINGTON, February 27, 1808.

To Kitchao Geboway:—

My son Kitchao Geboway,—I have received the speech which you sent me through General Gansevoort from Albany on the 13th of this month, and now return you my answer. It would have given me great pleasure to have been able to converse with and understand you, when you visited me at Washington; but the want of an interpreter rendered that impossible.

My son, tell your nation, the Chippewas, that I take them by the hand, and consider them as a part of the great family of the United States, which extends to the great Lakes and the Lake

f the Woods, northwardly, and from the rising to the setting sun; that the United States wish to live in peace with them, to consider them as a part of themselves, to establish a commerce with them, as advantageous to the Chippewas as they can make it, and in all cases to render them every service in our power. We shall never ask them to enter into our quarrels, nor to spill their blood in fighting our enemies. My son, in visiting this quarter of the United States, you have seen a part of our country, and some of our people from East to West. If you had travelled also from North to South, you would have seen it the same. You see that we are as numerous as the leaves of the trees, that we are strong enough to fight our own battles, and too strong to fear any enemy. When, therefore, we wish you to live in peace with all people, red and white, we wish it because it is for your good, and because it is our desire that your women and children shall live in safety, not fearing the tomahawk of any enemy, that they may learn to raise food enough to support their families, and that your nation may multiply and be strong. If any white men advise you to go to war for them, it is a proof they are too weak to defend themselves, that they are in truth your enemies, wishing to sacrifice you to save themselves; and when they shall be driven away, my son, what is to become of the red men who may join in their battles? Take the advice then of a father, and meddle not in the quarrels of the white people, should any war take place between them; but stay at home in peace, taking care of your wives and children. In that case not a hair of your heads shall be touched. Never will we do you an injury unprovoked, or disturb you in your towns or lands by any violence.

My son, I confirm everything which your father, Governor Hall, said to you at Detroit on my part: and in all your difficulties and dangers apply to him, and take his advice. If some of your principal chiefs will pay me a visit at Washington, I shall be very happy to receive them, to smoke the pipe of friendship with them, to take them by the hand and never to let go their friendship. They shall see that I want nothing from them but their good will, and to do them all the good in my power.

My son, the Secretary at War will comply with your request in giving you a chief's coat with epaulettes, and a stand of the colors of the United States, to plant in your town, to let all the world see that you are a part of the family of the United States.

My son, I wish you a pleasant journey, and a safe return to your family and friends.

XIV.

WASHINGTON, April 22, 1808.

To the Chiefs of the Ottawas, Chippewas, Powtewattamies, Wyandots, and Senecas of Sandusky :—

My Children,—I received your message of July last, and I am glad of the opportunity it gives me of explaining to you the sentiments of the government of the United States towards you.

Many among you must remember the time when we were governed by the British nation, and the war by which we separated ourselves from them. Your old men must remember also that while we were under that government we were constantly kept at war with the red men our neighbors. Many of these took side in the English war against us; so that after we had made peace with the English, ill blood remained between us for some time; and it was not till the treaty of Greeneville that we could come to a solid peace and perfect good understanding with all our Indian neighbors. This being once done and fixed lines drawn between them and us, laying off their lands to themselves, and ours to ourselves, so that each might know their own, and nothing disturb our future peace, we have from that moment, my children, looked upon you heartily as our brothers, and as a part of ourselves. We saw that your game was becoming too scarce to support you, and that unless we could persuade you to cultivate the earth, to raise the tame animals, and to spin and weave clothes for yourselves as we do, you would disappear from the earth. To encourage you, therefore, to save yourselves has been our constant object; and we have hoped that the day would come when every man among you would have his own farm laid off to himself as we have, would maintain his family by

labor as we do, and would make one people with us. But in all these things you have been free to do as you please; your lands are your own; your right to them shall never be violated by us; they are yours to keep or to sell as you please. Whenever you find it your interest to dispose of a part to enable you to improve the rest, and to support your families in the meantime, we are willing to buy, because our people increase fast. When a want of land in a particular place induces us to ask you to sell, still you are always free to say "No," and it will never disturb our friendship for you. We will never be angry with others for exercising their own rights according to what they think their own interests. You say you were told at Swan's Creek, that if you would not let us have lands, we should be angry with you, and would force you. Those, my children, who told you so, said what was false, and what never had been said or thought of by us. We never meant to control your free will; we never will do it. I will explain to you the ground of our late application to you for lands. You know that the posts of Detroit and Macinac have very little lands belonging to them. It is for your interest as well as ours that these posts should be maintained for the purposes of our trade with one another. We were desirous therefore to purchase as much land around them as would enable us to have sufficient settlements there to support the posts; and that this might be so laid off as to join with our possessions on Lake Erie. But we expressly instructed our beloved man, Governor Hall, not to press you beyond your own convenience, nor to buy more than you would spare with good will. He accordingly left you to your own inclinations, using no threats whatever, as you tell me in your message. You agreed to let us have a part of what we wished to buy. We are contented with it my children. We find no fault with you for what you did not do, but thank you for what you did.

You complain, my children, that your annuities are not regularly paid, that the goods delivered you are often bad in kind, that they sometimes arrive damaged, and are dear, and that you would rather receive them in money. You shall have them in money. We had no interest in laying out your money in goods for you.

It cost us considerable trouble in the purchase and transportation, and as we could not be everywhere with them to take care of them ourselves, we could not prevent their being injured sometimes by accident, sometimes by carelessness. To pay money therefore, is more convenient to us, and as it will please you better, it shall be done.

I am now, my children, to address you on a very serious subject, one which greatly concerns your happiness. Open your ears, therefore, let my words sink deeply into your bosoms, and never forget them. For be assured that I will not, and that I will fulfil them to their uttermost import. We have for sometime had a misunderstanding with the English, and we do not yet know whether it will end in peace or in war. But in either case, my children, do you remain quiet at home, taking no part in these quarrels. We do not wish you to shed your blood in our battles. We are able to fight them ourselves. And if others press you to take part against us, it is because they are weak, not able to protect themselves nor you. Consider well then what you do. Since we have freed ourselves from the English government, and made our peace with our Indian neighbors, we have cultivated that peace with sincerity and affection. We have done them such favors as were in our power, and promoted their interest and peace wherever we could. We consider them now as a part of ourselves, and we look to their welfare as our own. But if there be among you any nation whom no benefits can attach, no good offices on our part can convert into faithful friends, if relinquishing their permanent connection with us for the fugitive presents or promises of others, they shall prefer our enmity to our friendship, and engage in war against us, that nation must abandon forever the land of their fathers. No nation rejecting our friendship, and commencing wanton and unprovoked war against us, shall ever after remain within our reach; it shall never be in their power to strike us a second time. These words, my children, may appear harsh; but they are spoken in kindness; they are intended to warn you beforehand of the ruin into which those will rush, who shall once break the chain of friendship with us. You know they are not spoken from fear.

We fear no nation. We love yours. We wish you to live forever in peace with all men, and in brotherly affection with us; to be with us as one family; to take care of your women and children, feed and clothe them well, multiply and be strong with your friends and your enemies.

My children, I salute you with fatherly concern for your welfare.

XV.

May 4, 1808.

To the Chiefs of the Upper Cherokees :—

My Children, Chiefs of the Upper Cherokees,—I am glad to see you at the seat of government, to take you by the hand, and to assure you in person of the friendship of the United States towards all their red children, and of their desire to extend, to them all, their protection of good offices. The journey you have come is a long one, and the object expressed in our conference of the other day is important. I have listened to it with attention, and given it the consideration it deserves. You complain that you do not receive your just proportion of the annuities we pay your nation; that the chiefs of the lower towns take for them more than their share. My children, this distribution is made by the authority of the Cherokee nation, and according to their own rules over which we have no control. We do our duty in delivering the annuities to the head men of the nation, and we pretend to no authority over them, to no right of directing how they are to be distributed. But we will instruct our agent, Colonel Meigs, to exhort the chiefs to do justice to all the parts of their nation in the distribution of these annuities, and to endeavor that every town shall have its due share. We would willingly pay these annuities in money, which could be more equally divided, if the nation would prefer that, and if we can be assured that the money will not be laid out in strong drink instead of necessaries for your wives and children. We wish to do whatever will best secure your people from suffering for want of clothes or food. It is these wants which bring

sickness and death into your families, and prevent you from multiplying as we do. In answer to your question relating to the lands we have purchased from your nation at different times, I inform you that the payments have for the most part been made in money, which has been left, as the annuities are, to the discharge of your debts, and to distribute according to the rules of the nation.

You propose, my children, that your nation shall be divided into two, and that your part, the upper Cherokees, shall be separated from the lower by a fixed boundary, shall be placed under the government of the United States, become citizens thereof, and be ruled by our laws; in fine, to be our brothers instead of our children. My children, I shall rejoice to see the day when the red men, our neighbors, become truly one people with us, enjoying all the rights and privileges we do, and living in peace and plenty as we do, without any one to make them afraid, to injure their persons, or to take their property without being punished for it according to fixed laws. But are you prepared for this? Have you the resolution to leave off hunting for your living, to lay off a farm for each family to itself, to live by industry, the men working that farm with their hands, raising stock, or learning trades as we do, and the women spinning and weaving clothes for their husbands and children? All this is necessary before our laws can suit you or be of any use to you. However, let your people take this matter into consideration. If they think themselves prepared for becoming citizens of the United States, for living in subjection to laws and under their protection as we do, let them consult the lower towns, come with them to an agreement of separation by a fixed boundary, and send to this place a few of the chiefs they have most confidence in, with powers to arrange with us regulations concerning the protection of their persons, punishment of crimes, assigning to each family their separate farms, directing how these shall go to the family as they die one after another, in what manner they shall be governed, and all other particulars necessary for their happiness in their new condition. On our part I will ask the assistance of our great council, the Congress, whose authority is necessary to

give validity to these arrangements, and who wish nothing more sincerely than to render your condition secure and happy. Should the principal part of your people determine to adopt this alteration, and a smaller part still choose to continue the hunter's life, it may facilitate the settlement among yourselves to be told that we will give to those leave to go, if they choose it, and settle on our lands beyond the Mississippi, where some Cherokees are already settled, and where game is plenty, and we will take measures for establishing a store there among them, where they may obtain necessaries in exchange for their peltries, and we will still continue to be their friends there as much as here.

My children, carry these words to your people, advise with Colonel Meigs in your proceedings, ask him to inform me from time to time how you go on, and I will further advise you in what may be necessary. Tell your people I take them all by the hand; that I leave them free to do as they choose, and that whatever choice they make, I will still be their friend and father.

XVI.

May 5, 1808.

To Colonel Louis Cook and Jacob Francis of the St. Regis Indians :—

My Children,—I take you by the hand, and all the people of St. Regis within the limits of the United States, and I desire to speak to them through you. A great misunderstanding has taken place between the English and the United States, and although we desire to live in peace with all the world and unmolested, yet it is not quite certain whether this difference will end in peace or war. Should war take place, do you, my children, remain at home in peace, taking care of your wives and children. You have no concern in our quarrel, take therefore no part in it. We do not wish you to spill your blood in our battles. We can fight them ourselves. Say the same to your red brethren everywhere, let them remain neutral and quiet, and we will never disturb them. Should the English insist on their taking up the hatchet against

us, if they choose rather to break up their settlements and come over to live in peace with us, we will find other settlements for them, and they shall become our children. The red nations who shall remain in peace with the United States, shall forever find them true friends and fathers. Those who commence against them an unprovoked war, must expect their lasting enmity.

My children, I wish you well, and a safe return to your own country.

XVII.

WASHINGTON, December 2, 1808.

To the Delaware Chief, Captain Armstrong :—

I have received your letter of October 20th, wherein you express a wish to obtain a deed for the thirteen sections of lands reserved for the Delawares in the State of Ohio, by an act of Congress. I accordingly now send you an authentic deed designating the thirteen sections, and signed by the Secretary of the Treasury, who was authorized for this purpose by the act of Congress. Under this you are free to settle on the lands when you please, and to occupy them according to your own rules. You cannot, indeed, sell them to the white citizens of the United States. Knowing how liable you would be to be cheated and deceived, were we to permit our citizens to purchase your lands, our government acting as your friends and patrons, and desirous of guarding your interests against the frauds that would surround you, does not permit white persons to purchase your lands from you. In every other way they are yours, free to be used as you please; and their possession will be protected and guaranteed to you by the United States. I salute you and my children, the Delawares, with friendship.

XVIII.

December 21, 1808.

To the Miamis, Powtewatamies, Delawares and Chippeways.

My Children :—Some of you are old enough to remember, and the youngest have heard from their fathers, that the country was formerly governed by the English. While they governed it there were constant wars between the white and the red people. To such a height was the hatred of both parties carried that they thought it no crime to kill one another in cold blood whenever they had an opportunity. This spirit led many of the Indians to take side against us in the war; and at the close of it the English made peace for themselves, and left the Indians to get out of it as well as they could. It was not till twelve years after that we were able by the treaty of Greeneville to close our wars with all our red neighbors. From that moment, my children, the policy of this country towards you has been entirely changed. General Washington, our first President, began a line of just and friendly conduct towards you. Mr. Adams, the second, continued it; and from the moment I came into the administration I have looked upon you with the same good will as my own fellow citizens, have considered your interests as our interests, and peace and friendship as a blessing to us all. Seeing with sincere regret that your people were wasting away, believing that this proceeded from your frequent wars, and the destructive use of spirituous liquors, and scanty supplies of food, I have inculcated peace with all your neighbors, have endeavored to prevent the introduction of spirituous liquors among you, and pressed on you to rely for food on the culture of the earth more than on hunting. On the contrary, my children, the English persuade you to hunt, they supply you with spirituous liquors, and are now endeavoring to engage you to join them in the war against us, should a war take place. You possess reason, my children, as we do, and you will judge for yourselves which of us advise you as friends. The course they advise has worn you down to your present numbers, but temperance, peace and agriculture will raise you up to be what your forefathers were, will prepare you to possess

property, to wish to live under regular laws, to join us in our government, to mix with us in society, and your blood and ours united will spread again over the great island.

My children, this is the last time I shall speak to you as your father, it is the last counsel I shall give. I am now too old to watch over the extensive concerns of the seventeen States and their territories. I have, therefore, requested my fellow citizens to permit me to retire, to live with my family and to choose another chief and another father for you, and in a short time I shall retire and resign into his hands the care of your and our concerns. Be assured, my children, that he will have the same friendly disposition towards you which I have had, and that you will find in him a true and affectionate father. Entertain, therefore, no uneasiness on account of this change, for there will be no change as to you. Indeed, my children, this is now the disposition towards you of all our people. They look upon you as brethren, born in the same land, and having the same interests. In your journey to this place you have seen many of them. I am certain they have received you as brothers and been ready to show you every kindness. You will see the same on the road by which you will return; and were you to pass from north to south, or east to west in any part of the United States, you would find yourselves always among friends. Tell this, therefore, to your people on your return home, assure them that no change will ever take place in our dispositions towards them; deliver to them my adieux and my prayers to the Great Spirit for their happiness, tell them that during my administration I have held their hand fast in mine, that I will put it into the hand of their new father, who will hold it as I have done.

XIX.

To Little Turtle, Chief of the Miamis :—

My Son,—It is always with pleasure that I receive you here and take you by the hand, and that to the assurances of friendship to your nation I can add those of my personal respect and

esteem for you. Our confidence in your friendship has been the stronger, as your enlarged understanding could not fail to see the advantages resulting to your nation as well as to us from a mutual good understanding. We ask nothing from them but their peace and good will, and it is a sincere solicitude for their welfare which has induced us, from time to time, to warn them of the decay of their nation by continuing to rely on the chase for food, after the deer and buffalo are become too scanty to subsist them, and to press them before they are reduced too low, to begin the culture of the earth and the raising of domestic animals. A little of their land in corn and cattle will feed them much better than the whole of it in deer and buffalo, in their present scarce state, and they will be scarcer every year. I have, therefore, always believed it an act of friendship to our red brethren whenever they wished to sell a portion of their lands, to be ready to buy whether we wanted them or not, because the price enables them to improve the lands they retain, and turning their industry from hunting to agriculture, the same exertions will support them more plentifully.

You inform me, my son, that your nation claims all the land on the Wabash and the Miami of the Lake and their waters, and that a small portion of that which was sold to us by the Ottaways, Wyandots, and other tribes of Michigan belonged to you. My son, it is difficult for us to know the exact boundaries which divide the lands of the several Indian tribes, and indeed it appears often that they do not know themselves, or cannot agree about them. I have long thought it desirable that they should settle their boundaries with one another, and let them be written on paper and preserved by them and by us, to prevent disputes among themselves. The tribes who made that sale certainly claim the lands on both sides of the Miami, some distance up from the mouth, as they have since granted us two roads from the rapids to the Miami, the one eastwardly to the line of the treaty of Fort Industry, and the other south eastwardly to the line of the treaty of Greeneville. I observe, moreover, that in the late conveyance of lands on the White River branch of the Wabash, to the Delawares, the Powtewatamies join you in the

conveyance, which is an acknowledgment that all the lands on the waters of the Wabash do not belong to the Miamis alone. If, however, the Ottaways and others who sold to us had no right themselves, they could convey none to us, and we acknowledge we cannot acquire lands by buying them of those who have no title themselves. This question cannot be determined here, where we have no means of inquiring from those who have knowledge of the facts. We will instruct Governor Hull to collect the evidence from both parties, and from others, and to report it to us. And if it shall appear that the lands belonged to you and not to those who sold them, be assured we will do you full justice. We ask your friendship and confidence no longer than we shall merit it by our justice. On this subject, therefore, my son, your mind may be tranquil. You have an opportunity of producing before Governor Hull all the evidences of your right, and they shall be fairly weighed against the opposite claims.

My son, I salute your nation with constant friendship, and assure you of my particular esteem.

XX.

To Manchol, the great War Chief of the Powtewatamies :—

My Son,—I am happy to receive you at the seat of Government of the United States, to take you and your nation by the hand, and to welcome you to this place. It has long been my desire to see the distinguished men of the Powtewatamies, and to give them the same assurances of friendship and good will which I have given to all my other red children. I wish to see them living in plenty and prosperity, beginning to cultivate the earth and raise domestic animals for their comfortable subsistence. In this way they will raise up young people in abundance to succeed to the old, and to keep their nation strong. For this reason I recommend to them to live in peace with all men, and not, by destroying one another, to make the whole race of red men disappear from the land.

You say, my son, that you have engaged in a war with the Osages, and that the war club is now in your hand for that purpose; but you do not tell me for what cause you are waging war with the Osages. I have never heard that they have crossed the Mississippi and attacked your villages, killed your women and children, or destroyed the game on your lands. What is the injury then which they have done you and for which you wish to cross the Mississippi and to destroy them? If they have done you no wrong, have you a right to make war upon innocent and unoffending people? Be assured that the Great Spirit will not approve of this,—He did not make men strong that they might destroy all other men. If your young people think that in this way they will acquire honor as great warriors, they are mistaken. Nobody can acquire honor by doing what is wrong.

You say, my son, that it is not the wish of my red children to meddle in the wars between the whites, nor that we should meddle in the wars among our red children. If your wars in no wise affect our rights, or our relations with those on whom you make war, we do not meddle with them but by way of advice, as your father and friend submitting it to your own consideration. But my son, your war parties cannot pass from your towns to the country of the Osages, nor can the Osages come to revenge themselves on your towns without traversing extensively a country which is ours. They must cross the Mississippi which is always covered with our boats, our people and property. All the produce of the western parts of Pennsylvania, Virginia, Kentucky, Ohio, Indiana, Tennessee, and Louisiana, goes down the river Mississippi to New Orleans. It cannot be indifferent to us that this should be exposed to danger from unruly young men going to war. Our interests require that the Mississippi shall be a river of peace, not to be crossed by men seeking to shed blood. We have a right then to say that no war parties shall cross our river or our country without our consent. The Sacs and Foxes, besides the country from the Illinois to the Wisconsin on the east side of the Mississippi, ceded to us the country on the west side of the Mississippi, between that river and the Missouri, for about one hundred miles up each. The Osages

have ceded to us all the country from the south side of the Missouri to the Arkansas, more than two hundred miles up each river. Surely, my son, we are justifiable in so far meddling with your wars as to say that, in carrying them on neither the Osages nor you must cross that country which is ours, to get at one another, and in doing so to endanger our people and our property, and to stain our land with blood; and friendship requires that we should give you this warning.

My son, I wish you to consider this subject maturely, and to tell your nation that I request them to consider it also. I am ready to do them every favor in my power, and to give them every aid, but not aids to carry war across our territory. Do not suppose that in refusing this I am not your friend. If I were your enemy, what could I do better than to encourage you in tomahawking one another till not a man should be left. Neither must you suppose this to proceed from partiality to the Osages. You are nearer to me than the Osages, and on that account I should be more ready to do you good offices. But my desire to keep you in peace arises from my sincere wish to see you happy and prosperous, increasing in numbers, supplying your families plentifully with food and clothing, and relieving them from the constant chance of being destroyed by their enemies.

My son, the Secretary at War will give to you those tokens of our good will by which we manifest our friendship to the distinguished men among our red children who visit us. Be assured that I shall set a great value on your friendship; and convey for me to your nation assurances that I wish nothing more than their welfare. You shall return by the way of Baltimore and Philadelphia as you desire. I wish you to see as many of your brothers of the United States as you can. You will find them all to be your friends, and that they will receive you hospitably.

XXI.

December 21, 1808.

To Beaver, the head warrior of the Delawares:—

My Son,—I am glad to see you here to take you by the hand. I am the friend of your nation, and sincerely wish them well. I shall now speak to them as their friend, and advise them for their good.

I have read your speech to the Secretary at War, and considered it maturely. You therein say that after the conclusion of the treaty of Greenville, the Wapanakies and other tribes of Indians mutually agreed to maintain peace among themselves and with the United States. This, my son, was wise, and I entirely approve of it. And I equally commend you for what you further say, that yours and the other tribes have constantly maintained the articles of peace with us, and have ceased to listen to bad advice. I hope, my son, that you will continue in this good line of conduct, and I assure you the United States will forever religiously observe the treaty on their part, not only because they have agreed to it, but because they esteem you; they wish you well, and would endeavor to promote your welfare even if there were no treaty; and rejoicing that you have ceased to listen to bad advice, they hope you will listen to that which is good.

My son, you say that the Osage nation has refused to be at peace with your nation or any others; that they have refused the offers of peace, and extended their aggressions to all people. This is all new to me. I never heard of an Osage coming to war on this side of the Mississippi. Have they attacked your towns, killed your people, or destroyed your game? Tell me in what year they did this? or what is the aggression they have committed on yours and the other tribes on this side the Mississippi? But if they have defended themselves and their country, when your tribes have gone over to destroy them, they have only done what brave men ought to do, and what just men ought never to have forced them to do. Your having committed one wrong on them gives you no right to commit a second; and

be assured, my son, that the Almighty Spirit which is above will not look down with indifference on your going to war against his children on the other side the Mississippi, who have never come to attack you. He is their father as well as your father, and He did not make the Osages to be destroyed by you. I tell you that if you make war unjustly on the Osages, He will punish your nation for it. He will send upon your nation famine, sickness, or the tomahawk of a stronger nation, who will cut you off from the land. Consider this thing well, then, before it is too late, and before you strike. His hand is uplifted over your heads, and His stroke will follow yours. My son, I tell you these things because I wish your nation well. I wish them to become a peaceable, prosperous, and happy nation; and if this war against the Osages concerned yourselves alone, I would confine myself to giving you advice, and leave it to yourselves to profit by it. But this war deeply concerns the United States. Between you and the Osages is a country of many hundred miles extent belonging to the United States. Between you also is the Mississippi, the river of peace. On this river are floating the boats, the people, and all the produce of the western States of the Union. This commerce must not be exposed to the alarm of war parties crossing the river, nor must a path of blood be made across our country. What we say to you, my son, we say also to the Osages. We tell them that armed bands of warriors, entering on the lands or waters of the United States without our consent, are the enemies of the United States. If, therefore, considerations of your own welfare are not sufficient to restrain you from this unauthorized war, let me warn you on the part of the United States to respect their rights, not to violate their territory.

You request, my son, to be informed of our warfares, that you may be enabled to inform your nation on your return. We are yet at peace, and shall continue so, if the injustice of the other nations will permit us. The war beyond the water is universal. We wish to keep it out of our island. But should we go to war, we wish our red children to take no part in it. We are able to fight our own battles, and we know that our red children cannot

afford to spill their blood in our quarrels. Therefore, we do not ask it, but wish them to remain home in quiet, taking care of themselves and their families.

You complain that the white people in your neighborhood have stolen a number of your horses. My son, the Secretary of War will take measures for inquiring into the truth of this, and if it so appears, justice shall be done you.

The two swords which you ask shall be given to you; and we shall be happy to give you every other proof that we esteem you personally, my son, and shall always be ready to do anything which may advance your comfort and happiness. I hope you will deliver to your nation the words I have spoken to you, and assure them that in everything which can promote their welfare and prosperity they shall ever find me their true and faithful friend and father, that I hold them fast by the hand of friendship, which I hope they will not force me to let go.

XXII.

To Captain Hendrick, the Delawares, Mohiccons, and Munries :—

My Son and my Children,—I am glad to see you here to receive your salutations, and to return them by taking you by the hand, and renewing to you the assurances of my friendship. I learn with pleasure that the Miamis and Powtawatamies have given you some of their lands on the White River to live on, and that you propose to gather there your scattered tribes, and to dwell on it all your days.

The picture which you have drawn, my son, of the increase of our numbers and the decrease of yours is just, the causes are very plain, and the remedy depends on yourselves alone. You have lived by hunting the deer and buffalo—all these have been driven westward; you have sold out on the sea-board and moved westwardly in pursuit of them. As they became scarce there, your food has failed you; you have been a part of every year without food, except the roots and other unwholsome things you

could find in the forest. Scanty and unwholsome food produce diseases and death among your children, and hence you have raised few and your numbers have decreased. Frequent wars, too, and the abuse of spirituous liquors, have assisted in lessening your numbers. The whites, on the other hand, are in the habit of cultivating the earth, of raising stocks of cattle, hogs, and other domestic animals, in much greater numbers than they could kill of deer and buffalo.* Having always a plenty of food and clothing they raise abundance of children, they double their numbers every twenty years, the new swarms are continually advancing upon the country like flocks of pigeons, and so they will continue to do. Now, my children, if we wanted to diminish our numbers, we would give up the culture of the earth, pursue the deer and buffalo, and be always at war; this would soon reduce us to be as few as you are, and if you wish to increase your numbers you must give up the deer and buffalo, live in peace, and cultivate the earth. You see then, my children, that it depends on yourselves alone to become a numerous and great people. Let me entreat you, therefore, on the lands now given you to begin to give every man a farm; let him enclose it, cultivate it, build a warm house on it, and when he dies, let it belong to his wife and children after him. Nothing is so easy as to learn to cultivate the earth; all your women understand it, and to make it easier, we are always ready to teach you how to make ploughs, hoes, and necessary utensils. If the men will take the labor of the earth from the women they will learn to spin and weave and to clothe their families. In this way you will also raise many children, you will double your numbers every twenty years, and soon fill the land your friends have given you, and your children will never be tempted to sell the spot on which they have been born, raised, have labored and called their own. When once you have property, you will want laws and magistrates to protect your property and persons, and to punish those among you who commit crimes. You will find that our laws are good for this purpose; you will wish to live under them, you will unite yourselves with us, join in our great councils and form one people with us, and we shall all be Amer-

icans; you will mix with us by marriage, your blood will run in our veins, and will spread with us over this great island. Instead, then, my children, of the gloomy prospect you have drawn of your total disappearance from the face of the earth, which is true, if you continue to hunt the deer and buffalo and go to war, you see what a brilliant aspect is offered to your future history, if you give up war and hunting. Adopt the culture of the earth and raise domestic animals; you see how from a small family you may become a great nation by adopting the course which from the small beginning you describe has made us a great nation.

My children, I will give you a paper declaring your right to hold, against all persons, the lands given you by the Miamis and Powtewatamies, and that you never can sell them without their consent. But I must tell you that if ever they and you agree to sell, no paper which I can give you can prevent your doing what you please with your own. The only way to prevent this is to give to every one of your people a farm, which shall belong to him and his family, and which the nation shall have no right to take from them and sell; in this way alone can you ensure the lands to your descendants through all generations, and that it shall never be sold from under their feet. It is not the keeping your lands which will keep your people alive on them after the deer and buffalo shall have left them; it is the cultivating them alone which can do that. The hundredth part in corn and cattle will support you better than the whole in deer and buffalo.

My son Hendrick, deliver these words to your people. I have spoken to them plainly, that they may see what is before them, and that it is in their own power to go on dwindling to nothing, or to become again a great people. It is for this reason I wish them to live in peace with all people, to teach their young men to love agriculture, rather than war and hunting. Let these words sink deep in their hearts, and let them often repeat them and consider them. Tell them that I hold them fast by the hand, and that I will ever be their friend to advise and to assist them in following the true path to their future happiness.

XXIII.

To Kitchao Geboway :—

My Son,—I am happy to receive your visit at the seat of our government, and to repeat to you the assurances of my friendly dispositions towards your nation. I am the more pleased to see you again, as at your last visit we could not converse together for want of an interpreter. This difficulty is now removed by the presence of Mr. Ryley. I approve of your disposition, my son, to live at peace with all the world. It is what we wish all our red children to do, and to consider themselves as brethren of the same family, and forming with us but one nation. The Great Spirit did not make men that they might destroy one another, but doing to each other all the good in their power, and thus filling the land with happiness instead of misery and murder. This is the way in which we wish all our red children to live with one another, and with us ; and this is what I wish you to say to your nation from me, when you deliver to them what I said to you the last winter. I am sorry you have not been able to carry it to them ; they would have seen by that, that you came here as the friend of your own nation, and of all your red brethren. My son, I take by the hand the young man, the son of your friend, whom you brought with you. He is now young, and I hope will live to be old, and through his life will be steadfast in encouraging his nation to live in peace and friendship with their white brethren of the United States.

The Secretary at War will provide for your journey back, and your father Governor Hull will be glad to see you on your way. He will always give good advice to your nation in my name, and will guide them in the paths of peace and friendship with all men.

XXIV.

January 9, 1809.

To the Deputies of the Cherokee Upper Towns :—

My Children,—I have maturely considered the speeches you have delivered me, and will now give you answers to the several matters they contain.

You inform me of your anxious desires to engage in the industrious pursuits of agriculture and civilized life. That finding it impracticable to induce the nation at large to join in this, you wish a line of separation to be established between the upper and lower towns, so as to include all the waters of the Hiwassee in your part, and that having thus contracted your society within narrower limits, you propose within these to begin the establishment of fixed laws and of regular government. You say that the lower towns are satisfied with the division you propose; and on these several matters you ask my advice and aid.

With respect to the line of division between yourselves and the lower towns, it must rest on the joint consent of both parties. The one you propose seems moderate, reasonable, and well defined. We are willing to recognize those on each side of that line as distinct societies, and if our aid shall be necessary to mark it more plainly than nature has done, you shall have it. I think with you, that on this reduced scale it will be more easy for you to introduce the regular administration of laws.

In proceeding to the establishment of laws, you wish to adopt them from ours, and such only for the present as suit your present condition; chiefly, indeed, those for the punishment of crimes, and the protection of property. But who is to determine which of our laws suit your condition, and shall be in force with you? All of you being equally free, no one has a right to say what shall be law for the others. Our way is to put these questions to the vote, and to consider that as law for which the majority votes. The fool has as great a right to express his opinion by vote as the wise, because he is equally free, and equally master of himself. But as it would be inconvenient for all your men to meet in one place, would it not be better for every town to do as we do, that is to say, choose by the vote of the majority of the town and of the country people nearer to that than to any other town, one, two, three, or more, according to the size of the town, of those whom each voter thinks the wisest and honestest men of their place, and let these meet together and agree which of our laws suit them. But these men know nothing of our laws, how then can they know which to adopt. Let them as-

sociate in their council our beloved man living with them, Colonel Meigs, and he will tell them what our law is on any point they desire. He will inform them, also, of our methods of doing business in our councils, so as to preserve order, and to obtain the vote of every member fairly. This council can make a law for giving to every head of a family a separate parcel of land, which, when he has built upon and improved, it shall belong to him and his descendants forever, and which the nation itself shall have no right to sell from under his feet; they will determine, too, what punishment shall be inflicted for every crime. In our States, generally, we punish murder only by death, and all other crimes by solitary confinement in a prison.

But when you shall have adopted laws, who are to execute them? Perhaps it may be best to permit every town and the settlers in its neighborhood attached to it, to select some of their best men, by a majority of its votes, to be judges in all differences, and to execute the law according to their own judgment. Your council of representatives will decide on this or such other mode as may best suit you. I suggest these things, my children, for the consideration of the upper towns of your nation, to be decided on as they think best; and I sincerely wish you may succeed in your laudable endeavors to save the remains of your nation by adopting industrious occupations and a government of regular law. In this you may always rely on the counsel and assistance of the government of the United States. Deliver these words to your people in my name, and assure them of my friendship.

XXV.

January 9, 1809.

To the Deputies of the Cherokees of the Upper and Lower Towns :—

My Children,—I understand from the speeches which you have delivered me, that there is a difference of disposition among the people of both parts of your nation, some of them desiring to remain on their lands, to betake themselves to agriculture, and

the industrious occupations of civilized life, while others, retaining their attachment to the hunter life, and having little game on their present lands, are desirous to remove across the Mississippi, to some of the vacant lands of the United States, where game is abundant. I am pleased to find so many disposed to ensure, by the cultivation of the earth, a plentiful subsistence for their families, and to improve their minds by education; but I do not blame those who, having been brought up from their infancy to the pursuit of game, desire still to follow it to distant countries. I know how difficult it is for men to change the habits in which they have been raised. The United States, my children, are the friends of both parties, and as far as can reasonably be asked, they will be willing to satisfy the wishes of both. Those who remain may be assured of our patronage, our aid, and good neighborhood; those who wish to remove, are permitted to send an exploring party to reconnoitre the country on the waters of the Arkansas and White rivers, and the higher up the better, as they will be the longer unapproached by our settlements, which will begin at the mouths of those rivers. The regular districts of the government of St. Louis are already laid off to the St. Francis. When this party shall have found a tract of country suiting the emigrants, and not claimed by other Indians, we will arrange with them and you the exchange of that for a just portion of the country they leave, and to a part of which proportioned to their numbers they have a right. Every aid towards their removal, and what will be necessary for them there, will then be freely administered to them, and when established in their new settlements, we shall still consider them as our children, give them the benefit of exchanging their peltries for what they want at our factories, and always hold them firmly by the hand.

I will now, my children, proceed to answer your kind address on my retiring from the government. Sensible that I am become too old to watch over the extensive concerns of the seventeen States and their territories, I requested my fellow citizens to permit me to retire, to live with my family, and to choose another President for themselves and father for you. They have

done so; and in a short time I shall retire, and resign into his hands the care of your and our concerns. Be assured, my children, that he will have the same friendly dispositions towards you which I have had, and that you will find in him a true and affectionate father. Indeed, this is now the disposition of all our people towards you; they look upon you as brethren, born in the same land, and having the same interests. Tell your people, therefore, to entertain no uneasiness on account of this change, for there will be no change as to them. Deliver to them my adieux, and my prayers to the Great Spirit for their happiness. Tell them that during my administration I have held their hand fast in mine, and that I will put it into the hand of their new father, who will hold it as I have done.

XXVI.

January 10, 1809.

To the Chiefs of the Wyandots, Ottawas, Chippewas, Powtewatamies and Shawanese:—

My Children,—This is the first time I have had the pleasure of seeing the distinguished men of our neighbors the Wyandots, Ottawas and Chippewas, at the seat of our government. I welcome you to it as well as the Powtewatamies and Shawanese, and thank the Great Spirit for having conducted you hither in safety and health. I take you and your people by the hand and salute you as my children; I consider all my red children as forming one family with the whites, born in the same land with them, and bound to live like brethren, in peace, friendship and good neighborhood. In former times, my children, we were not our own masters, but were governed by the English. Then we were often at war with our neighbors. Ill blood was raised and kept up between us, and in the war in which we threw off the English government, many of the red people, mistaking their brothers and real friends, took sides with the English government against us; and it was not till many years after we made peace with the English, that the treaty of Grenville closed our last wars with

our Indian neighbors. From that time, my children, we have looked on you as a part of ourselves, and have cherished your prosperity as our own. We saw that these things were wasting away your numbers to nothing; that the intemperate use of ardent spirits produced poverty, trouble and murders among you; your wars with one another were lessening your numbers, and attachment to the hunter life, after game had nearly left you, produced famine, sickness and deaths among you in the scarce season of every year. It has been our endeavor, therefore, like true fathers and brothers, to withhold strong liquors from you, to keep you in peace with one another, and to encourage and aid you in the culture of the earth, and raising domestic animals, to take the place of the wild ones. This we have done, my children, because we are your friends, and wish you well. If we feared you, if we were your enemies, we should have furnished you plentifully with whiskey, let the men destroy one another in perpetual wars, and the women and children waste away for want of food, and remain insensible that they could raise it out of the earth. We have been told, my children, that some of you have been doubting whether we or the English were your truest friends. What do the English do for you? They furnish you with plenty of whiskey, to keep you in idleness, drunkenness and poverty; and they are now exciting you to join them in war against us, if war should take place between them and us. But we tell you to stay at home in quiet, to take no part in quarrels which do not concern you. The English are now at war with all the world but us, and it is not yet known whether they will not force us also into it. They are strong on the water, but weak on the land. We live on the land and we fear them not. We are able to fight our own battles; therefore we do not ask you to spill your blood in our quarrels, much less do we wish to be forced to spill it with our own hands. You have travelled through our country from the lakes to the tide waters. You have seen our numbers in that direction, and were you to pass along the sea shore you would find them much greater. You know the English numbers, their scattered forts and string of people, along the borders of the lakes and the St. Lawrence,

how long do you think it will take us to sweep them out of the country? and when they are swept away, what is to become of those who join them in their war against us? My children, if you love the land in which you were born, if you wish to inhabit the earth which covers the bones of your fathers, take no part in the war between the English and us, if we should have war. Never will we do an unjust act towards you. On the contrary, we wish to befriend you in every possible way; but the tribe which shall begin an unprovoked war against us, we will extirpate from the earth, or drive to such a distance as that they shall never again be able to strike us. I tell you these things my children, not to make you afraid. I know you are brave men and therefore cannot fear. But you are also wise men and prudent men. I say it, therefore, that, in your wisdom and prudence, you may look forward. That you may go to the graves of your fathers and say, "fathers, shall we abandon you?" That you may look in the faces of your wives and children and ask, "shall we expose these our own flesh and blood to perish from want in a distant country and have our race and name extinguished from the face of the earth?" Think of these things, my children, as wise men, and as men loving their fathers, their wives and children, and the name and memory of their nation. I repeat, that we will never do an unjust act towards you. On the contrary, we wish you to live in peace, to increase in numbers, to learn to labor as we do, and furnish food for your increasing numbers, when the game shall have left you. We wish to see you possessed of property, and protecting it by regular laws. In time, you will be as we are; you will become one people with us. Your blood will mix with ours; and will spread, with ours, over this great island. Hold fast then, my children, the chain of friendship which binds us together, and join us in keeping it forever bright and unbroken.

I invite you to come here, my children, that you might hear with your own ears, the words of your father; that you might see with your own eyes, the sincere disposition of the United States towards you. In your journey to this place you have seen great numbers of your white brothers; you have been received

by them as brothers, have been treated kindly and hospitably, and you have seen and can tell your people that their hearts are now sincerely with you. This is the first time I have ever addressed your chiefs, in person, at the seat of Government,—it will also be the last. Sensible that I am become too old to watch over the extensive concerns of the seventeen States and their territories, I requested my fellow citizens to permit me to retire to live with my family, and to choose another President for themselves, and father for you. They have done so; and in a short time I shall retire and resign into his hands the care of your and our concerns. Be assured, my children, that he will have the same friendly dispositions towards you which I have had, and that you will find in him a true and affectionate father. Indeed this is now the disposition of all our people towards you; they look upon you as brethren, born in the same land, and having the same interests. Tell your people, therefore, to entertain no uneasiness on account of this change, for there will be no change as to them. Deliver to them my adieus, and my prayers to the Great Spirit for their happiness. Tell them that during my administration, I have held their hand fast in mine; and that I will put it into the hand of their new father, who will hold it as I have done.

XXVII.

January 18, 1809.

To the Chiefs of the Ottawas, Chippewas, Powtewatamies, Shawanese and Wyandots:—

My Children,—I have considered the speech you have delivered me, and will now make answer to it. You have gone back to ancient times, and given a true history of the uses made of you by the French, who first inhabited your country, and afterwards by the English; and how they used you as dogs to set upon those whom they wanted to destroy. They kept the hatchet always in your hand, exposing you to be killed in their quarrels, and then gave you whiskey that you might quarrel and kill one another. I am glad you understand these things, and

are determined no more to fight their battles. We shall never wish you to fight ours, but to stay at home in peace and take care of yourselves. You still wish, however, to keep up a correspondence with the English, because you say your young people find an advantage in it. The less you have to do with them the better, because all their endeavors will be, as you know, to persuade you to go to war for them. If they owe you for lands, they ought to pay you once for all and be done with it. With respect to your people on the English side of the water, should we have war with the English, let them remain neutral and we shall not disturb them ; but if the English should endeavor to force them into the war, you would do well to receive them and let them live with you till we can clear the way for them to go back again, which will not take long.

You ask me what passed between this Government and the Little Turtle, the chiefs of the Chippewas, Powtewatamies, Shawanese, Ottawas, Isaac Williams, the Crane and the Delawares, at their visits to the seat of this Government many years ago. Those visits were in the time of my predecessors, so that I did not hear their speeches, and they did not leave them in writing. It is not in my power, therefore, to tell you what they were. But I can assure you that when the Little Turtle visited me, and in like manner when the chiefs of other tribes have visited me, not one word was ever said to the prejudice of the other Indians. I have no reason to believe they wished to speak to me in that way, but if they did, they knew I would not listen to them, and therefore did not do it. My advice to them all has been constantly to live in peace and friendship with one another, to begin to cultivate the earth, to raise domestic animals, and leave off the use of ardent spirits : in short, precisely what I have said to yourselves.

You ask whether the treaties at Swan's creek, and those of the last fall, and the fall before, were made by my desire. I will explain the subject to you. We consider your lands as belonging fully to yourselves, and that we have no right to purchase them but with your own free consent. Whenever you wish to sell, we are willing to buy. although it may be lands

which we do not immediately want. We believe it to be for your benefit to sell a part of your lands for annuities, which may enable you to improve farms, and in the meantime to support yourselves. While you keep such large tracts of country, the few deer which remain tempt you to continue hunters, and are yet not enough to maintain you plentifully through the year. A small part of the land cultivated in corn, with the cattle, hogs, and sheep it would enable you to raise, would maintain you better through the year, than the whole does in game. A thorough persuasion, therefore, that it is better for you to turn your surplus lands from time to time into money, induces us to buy when you desire to sell. On this principle, at the treaty of Swan's creek we purchased the slip of land which laid between what you sold to the Connecticut company and our former lines. We had no particular desire to buy it, but were told that it would be convenient to you to sell that parcel, and therefore we bought it.

The lands which were puchased of you near Detroit the last fall and the fall before, we did wish to purchase, provided you were willing freely to sell. At Detroit, you know, we keep a a garrison to watch the English, and to protect the factory we establish there, to carry on trade with you. It is very desirable for us, therefore, to obtain so much land in the neighborhood as would receive settlers sufficient to raise provisions for the garrison, and to strengthen the garrison if attacked by the English. But still we instructed Governor Hull, however much we wished to get some land there, not to press it on you if you were not entirely willing to accommodate us. The settlement of our people there will be a great advantage to you if you become cultivators of the earth. You saw the Cherokees who were here when you arrived, my children. These were wealthy men, and became wealthy merely by living near our settlements. Their mother towns of Chota and Chilowee, are but twelve miles from our principal town of Knoxville. The Cherokees there have good farms, good houses, and abundance of cattle and horses. If a family raises more cattle or corn than they want for their own use, instead of letting it be eaten by their own lazy people who will not work, they carry it to Knoxville, sell it to our people,

and purchase with the money clothes and other comforts for themselves. Our settlements around Detroit will give you the same advantages. If you become farmers and raise cattle, hogs, sheep, fowls, and such things to spare, you can immediately exchange them for clothing and other necessaries. I am satisfied, therefore, my children, that the accommodating us with that land was as beneficial to you as to us. But, notwithstanding, I believe it to be better for you to sell your surplus lands from time to time; yet I repeat to you the assurances that although we may go so far, sometimes, as to say we would be willing to buy such a piece of land, yet we will never press you to sell, until you shall desire yourselves to sell it.

I have thus, my children, answered the particulars of your speech. I have done it with truth and an open heart, and I hope it will be satisfactory to you.

XXVIII.

January 31, 1809.

To the Chiefs of the Ottawas, Chippewas, Powtewatamies, Wyandots, and Shawanese:—

My Children,—I have considered the speech you have delivered me, and I will now give you an answer to it.

You have told us on former occasions of certain promises made to you at the treaty of Grenville, by General Wayne, respecting certain lands whereon you and your friends live. But when we looked into the treaty of Grenville, we found no such promises there; and as it is our custom to put all our agreements into writing, that they may never be forgotten or mistaken, we concluded no such promises had been made. But you now explain that the chiefs of the Wyandots near Detroit did not arrive at Grenville till after the treaty was signed—that they then convinced General Wayne that provision ought to be made for securing to them possession of the lands they lived on, so long as they and their descendants shall choose to live on them, and that he agreed to it. Of this, besides other evidence, you now pro-

duce the belt of wampum reserved by you, in memory of it, the counter-belt given us having probably been destroyed in the fire which consumed our war office in the year 1800. Such evidence, therefore, being now produced as induces a belief of the agreement, it shall be committed to writing, according to what has passed between the Secretary at War and yourselves; and we will also put into writing what has passed respecting the reserves for the Indians, and you shall have a copy of these writings which shall be firm and good to you forever.

You complain that white people go on your lands and settle without your consent. This is entirely against our will, and I earnestly desire you, my children, as soon as any intruder of the whites sets down on your lands, that you will not delay a moment to inform our agent, who will always be instructed in the measures to be taken for their immediate removal; and I desire you to do this, on your return, as to the intruders you now complain of.

The Secretary at War has explained to you the circumstances which attended the running the boundary line near Sandusky, under the treaty at Swan's creek, so as to satisfy you that no variation of it was intended; and you may be assured that when we proceed to run the lines for the roads granted us the last fall, you shall have notice, in order that your chiefs may attend and see it fairly done.

For these roads, with which your nations have been so friendly as to accommodate us, and which you wished us to accept as a present, I return you my thanks, and I accept them; and I request you, on our part, to accept as a token of our good will, the sum of a thousand dollars, of which five hundred dollars will be paid you here. And we shall be happy if you can employ this sum to your benefit or comfort in any way. Our settlements are now extending so much in every direction, that we shall be obliged to ask roads from our Indian brethren, that we may pass conveniently from one settlement to another, for which we will always gladly pay them the full value.

You have been informed, as you desired, of the exact amount of your annuities.

I have thus, my children, answered all the parts of your speech, and I have done it sincerely and with good will to you. I have not filled you with whiskey, as the English do, to make you promise, or give up what is against your interest, when out of your senses. I have listened to your complaints and proposals, I have found them reasonable, and I have given you the answers which a just and a reasonable nation ought to do. And this you may be assured is the way in which we shall always do business with you, because we do not consider you as another nation, but as a part of us, living indeed under your own laws, but having the same interests with us. I hope you will tell these things to your people, and that they will sink deep into their minds.

APPENDIX TO PART II, OF BOOK III.

CONFIDENTIAL MESSAGE RECOMMENDING A WESTERN EXPLORING EXPEDITION—JANUARY 18, 1803.

Gentlemen of the Senate and of the House of Representatives :—

As the continuance of the act for establishing trading-houses with the Indian tribes, will be under the consideration of the legislature at its present session, I think it my duty to communicate the views which have guided me in the execution of that act, in order that you may decide on the policy of continuing it, in the present or any other form, or discontinue it altogether, if that shall, on the whole, seem most for the public good.

The Indian tribes residing within the limits of the United States, have, for a considerable time, been growing more and more uneasy at the constant diminution of the territory they occupy, although effected by their own voluntary sales; and the policy has long been gaining strength with them, of refusing absolutely all further sale, on any conditions; insomuch that, at this time, it hazards their friendship, and excites dangerous jealousies and perturbations in their minds to make any overture for the purchase of the smallest portions of their land. A very few tribes only are not yet obstinately in these dispositions. In order peaceably to counteract this policy of theirs, and to provide an extension of territory which the rapid increase of our numbers will call for, two measures are deemed expedient. First: to encourage them to abandon hunting, to apply to the raising stock, to agriculture and domestic manufactures, and thereby prove to themselves that less land and labor will maintain them in this, better than in their former mode of living. The extensive forests necessary in the hunting life will then become use-

less, and they will see advantage in exchanging them for the means of improving their farms and of increasing their domestic comforts. Secondly: to multiply trading-houses among them, and place within their reach those things which will contribute more to their domestic comfort than the possession of extensive but uncultivated wilds. Experience and reflection will develop to them the wisdom of exchanging what they can spare and we want, for what we can spare and they want. In leading them thus to agriculture, to manufactures, and civilization; in bringing together their and our settlements, and in preparing them ultimately to participate in the benefits of our government, I trust and believe we are acting for their greatest good. At these trading-houses we have pursued the principles of the act of Congress, which directs that the commerce shall be carried on liberally, and requires only that the capital stock shall not be diminished. We consequently undersell private traders, foreign and domestic; drive them from the competition; and thus, with the good will of the Indians, rid ourselves of a description of men who are constantly endeavoring to excite in the Indian mind suspicions, fears, and irritations toward us. A letter now enclosed, shows the effect of our competition on the operations of the traders, while the Indians, perceiving the advantage of purchasing from us, are soliciting generally our establishment of trading houses among them. In one quarter this is particularly interesting. The legislature, reflecting on the late occurrences on the Mississippi, must be sensible how desirable it is to possess a respectable breadth of country on that river, from our southern limit to the Illinois at least, so that we may present as firm a front on that as on our eastern border. We possess what is below the Yazoo, and can probably acquire a certain breadth from the Illinois and Wabash to the Ohio; but between the Ohio and Yazoo, the country all belongs to the Chickasaws, the most friendly tribe within our limits, but the most decided against the alienation of lands. The portion of their country most important for us is exactly that which they do not inhabit. Their settlements are not on the Mississippi, but in the interior country. They have lately shown a desire to become agricultural, and this

leads to the desire of buying implements and comforts. In the strengthening and gratifying of these wants, I see the only prospect of planting on the Mississippi itself, the means of its own safety. Duty has required me to submit these views to the judgment of the legislature; but as their disclosure might embarrass and defeat their effect, they are committed to the special confidence of the two houses.

While the extension of the public commerce among the Indian tribes, may deprive of that source of profit such of our citizens as are engaged in it, it might be worthy the attention of Congress, in their care of individual as well as of the general interest, to point in another direction the enterprize of these citizens, as profitably for themselves, and more usefully for the public. The river Missouri, and the Indians inhabiting it, are not as well known as is rendered desirable by their connection with the Mississippi, and consequently with us. It is, however, understood, that the country on that river is inhabited by numerous tribes, who furnish great supplies of furs and peltry to the trade of another nation, carried on in a high latitude, through an infinite number of portages and lakes, shut up by ice through a long season. The commerce on that line could bear no competition with that of the Missouri, traversing a moderate climate, offering, according to the best accounts, a continued navigation from its source, and possibly with a single portage, from the western ocean, and finding to the Atlantic a choice of channels through the Illinois or Wabash, the lakes and Hudson, through the Ohio and Susquehanna, or Potomac or James rivers, and through the Tennessee and Savannah rivers. An intelligent officer, with ten or twelve chosen men, fit for the enterprize, and willing to undertake it, taken from our posts, where they may be spared without inconvenience, might explore the whole line, even to the western ocean; have conferences with the natives on the subject of commercial intercourse; get admission among them for our traders, as others are admitted; agree on convenient deposits for an interchange of articles; and return with the information acquired, in the course of two summers. Their arms and accoutrements, some instruments of observation,

and light and cheap presents for the Indians, would be all the apparatus they could carry, and with an expectation of a soldier's portion of land on their return, would constitute the whole expense. Their pay would be going on, whether here or there. While other civilized nations have encountered great expense to enlarge the boundaries of knowledge, by undertaking voyages of discovery, and for other literary purposes, in various parts and directions, our nation seems to owe to the same object, as well as to its own interests, to explore this, the only line of easy communication across the continent, and so directly traversing our own part of it. The interests of commerce place the principal object within the constitutional powers and care of Congress, and that it should incidentally advance the geographical knowledge of our own continent, can not but be an additional gratification. The nation claiming the territory, regarding this as a literary pursuit, which it is in the habit of permitting within its own dominions, would not be disposed to view it with jealousy, even if the expiring state of its interests there did not render it a matter of indifference. The appropriation of two thousand five hundred dollars, "for the purpose of extending the external commerce of the United States," while understood and considered by the executive as giving the legislative sanction, would cover the undertaking from notice, and prevent the obstructions which interested individuals might otherwise previously prepare in its way.

BOOK IV.

MISCELLANEOUS.

PART I.—NOTES ON VIRGINIA.

" II.—BIOGRAPHICAL SKETCHES OF DISTINGUISHED MEN.

" III.—THE BATTURE AT NEW ORLEANS.

" IV.—JEFFERSON'S MANUAL.

" V.—THE ANAS.

" VI.—MISCELLANEOUS PAPERS.

INTRODUCTORY TO BOOK IV.

This fourth and last division of the work contains a large mass of very valuable and interesting miscellaneous matter—everything, indeed, valuable and interesting written by Mr. Jefferson, and not embraced in the previous divisions of the work. To the general reader, it will be found much the most instructive and entertaining portion of the publication, ranging, as it does, over a vast field of discussion—unless, perhaps, the latter portion of Mr. Jefferson's Correspondence be excepted, say, from 1812 to the end of his life. Among the interesting papers contained in this division of the work, may be enumerated the "Notes on Virginia," biographical sketches of distinguished Revolutionary characters, Mr. Jefferson's argument in vindication of his official action while President of the United States in connection with the Batture at New Orleans—the celebrated Anas, Resolutions defining the relations between the State and Federal Governments, and believed to be the originals of the Kentucky Resolutions of 1799, &c. These are but a few of the interesting papers comprised in Book IV. There are many others possessing great intrinsic interest and a very considerable historical value, as throwing much light upon the early history of our country. And nowhere does the genius of the distinguished Author, and the richness and diversity of his resources, more impress the reader than in the mass of miscellaneous matter collected in this last division of the work.

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PART I.

NOTES ON VIRGINIA.

QUERY I.

An exact description of the limits and boundaries of the State of Virginia ?

Virginia is bounded on the east by the Atlantic; on the north by a line of latitude crossing the eastern shore through Watkin's Point, being about 37° 57′ north latitude; from thence by a straight line to Cinquac, near the mouth of Potomac; thence by the Potomac, which is common to Virginia and Maryland, to the first fountain of its northern branch; thence by a meridian line, passing through that fountain till it intersects a line running east and west, in latitude 39° 43′ 42.4″ which divides Maryland from Pennsylvania, and which was marked by Messrs. Mason and Dixon; thence by that line, and a continuation of it westwardly to the completion of five degrees of longitude from the eastern boundary of Pennsylvania, in the same latitude, and thence by a meridian line to the Ohio; on the west by the Ohio and Mississippi, to latitude 36° 30′ north, and on the south by the line of latitude last mentioned. By admeasurements through nearly the whole of this last line, and supplying the unmeasured parts from good data, the Atlantic and Mississippi are found in this latitude to be seven hundred and fifty-eight miles distant, equal to 30° 38′ of longitude, reckoning fifty-five miles and three thousand one hundred and forty-four feet to the degree. This being our comprehension of longitude, that of our latitude, taken between this and Mason and Dixon's line, is 3° 13′ 42.4″ equal to two hundred and

twenty-three and one-third miles, supposing a degree of a great circle to be sixty-nine miles, eight hundred and sixty-four feet, as computed by Cassina. These boundaries include an area somewhat triangular of one hundred and twenty-one thousand five hundred and twenty-five square miles, whereof seventy-nine thousand six hundred and fifty lie westward of the Alleghany mountains, and fifty-seven thousand and thirty-four westward of the meridian of the mouth of the Great Kanhaway. This State is therefore one-third larger than the islands of Great Britain and Ireland, which are reckoned at eighty-eight thousand three hundred and fifty-seven square miles.

These limits result from, 1. The ancient charters from the crown of England. 2. The grant of Maryland to the Lord Baltimore, and the subsequent determinations of the British court as to the extent of that grant. 3. The grant of Pennsylvania to William Penn, and a compact between the general assemblies of the commonwealths of Virginia and Pennsylvania as to the extent of that grant. 4. The grant of Carolina, and actual location of its northern boundary, by consent of both parties. 5. The treaty of Paris of 1763. 6. The confirmation of the charters of the neighboring States by the convention of *Virginia* at the time of constituting their commonwealth. 7. The cession made by *Virginia* to Congress of all the lands to which they had title on the north side of the Ohio.

QUERY II.

A notice of its rivers, rivulets, and how far they are navigable?

An inspection of a map of *Virginia*, will give a better idea of the geography of its rivers, than any description in writing. Their navigation may be imperfectly noted.

Roanoke, so far as it lies within the State, is nowhere navigable but for canoes, or light batteaux; and even for these in such detached parcels as to have prevented the inhabitants from availing themselves of it at all.

James River, and its waters, afford navigation as follows :

The whole of *Elizabeth River*, the lowest of those which run into James River, is a harbor, and would contain upwards of three hundred ships. The channel is from one hundred and fifty to two hundred fathoms wide, and at common flood tide affords eighteen feet water to Norfolk. The Stafford, a sixty gun ship, went there, lightening herself to cross the bar at Sowel's Point. The Fier Rodrigue, pierced for sixty-four guns, and carrying fifty, went there without lightening. Craney Island, at the mouth of this river, commands its channel tolerably well.

Nansemond River is navigable to Sleepy Hole for vessels of two hundred and fifty tons; to Suffolk for those of one hundred tons; and to Milner's for those of twenty-five.

Pagan Creek affords eight or ten feet water to Smithfield, which admits vessels of twenty tons.

Chickahominy has at its mouth a bar, on which is only twelve feet water at common flood tide. Vessels passing that, may go eight miles up the river; those of ten feet draught may go four miles further, and those of six tons burden twenty miles further.

Appamattox may be navigated as far as Broadways, by any vessel which has crossed Harrison's bar in James River; it keeps eight or ten feet water a mile or two higher up to Fisher's bar, and four feet on that and upwards to Petersburg, where all navigation ceases.

James River itself affords a harbor for vessels of any size in Hampton Road, but not in safety through the whole winter; and there is navigable water for them as far as Mulberry Island. A forty gun ship goes to Jamestown, and, lightening herself, may pass Harrison's bar; on which there is only fifteen feet water. Vessels of two hundred and fifty tons may go to Warwick; those of one hundred and twenty-five go to Rocket's, a mile below Richmond; from thence is about seven feet water to Richmond; and about the centre of the town, four feet and a half, where the navigation is interrupted by falls, which in a course of six miles, descend about eighty-eight feet perpendicular; above these it is resumed in canoes and batteaux, and is prosecuted safely and advantageously to within ten miles of the Blue Ridge and even through the Blue Ridge a ton weight has been brought

and the expense would not be great, when compared with its object, to open a tolerable navigation up Jackson's river and Carpenter's creek, to within twenty-five miles of Howard's creek of Green Briar, both of which have then water enough to float vessels into the Great Kanhaway. In some future state of population I think it possible that its navigation may also be made to interlock with that of the Potomac, and through that to communicate by a short portage with the Ohio. It is to be noted that this river is called in the maps *James River*, only to its confluence with the Rivanna; thence to the Blue Ridge it is called the Fluvanna; and thence to its source Jackson's river. But in common speech, it is called James River to its source.

The *Rivanna*, a branch of James River, is navigable for canoes and batteaux to its intersection with the South-West mountains, which is about twenty-two miles; and may easily be opened to navigation through these mountains to its fork above Charlottesville.

York River, at Yorktown, affords the best harbor in the State for vessels of the largest size. The river there narrows to the width of a mile, and is contained within very high banks, close under which vessels may ride. It holds four fathom water at high tide for twenty-five miles above York to the mouth of Poropotank, where the river is a mile and a half wide, and the channel only seventy-five fathom, and passing under a high bank. At the confluence of *Pamunkey* and *Mattapony*, it is reduced to three fathom depth, which continues up Pamunkey to Cumberland, where the width is one hundred yards, and up Mattapony to within two miles of Frazier's ferry, where it becomes two and a half fathom deep, and holds that about five miles. Pamunkey is then capable of navigation for loaded flats to Brockman's bridge, fifty miles above Hanover town, and Mattapony to Downer's bridge, seventy miles above its mouth.

Piankatank, the little rivers making out of *Mobjack Bay* and those of the eastern shore, receive only very small vessels, and these can but enter them.

Rappahannock affords four fathom water to Hobb's hole, and two fathom from thence to Fredericksburg.

Potomac is seven and a half miles wide at the mouth; four and a half at Nomony bay; three at Aquia; one and a half at Hallowing point; one and a quarter at Alexandria. Its soundings are seven fathom at the mouth; five at St. George's island; four and a half at Lower Matchodic; three at Swan's point, and thence up to Alexandria; thence ten feet water to the falls, which are thirteen miles above Alexandria. These falls are fifteen miles in length, and of very great descent, and the navigation above them for batteaux and canoes is so much interrupted as to be little used. It is, however, used in a small degree up the Cohongoronta branch as far as fort Cumberland, which was at the mouth of Willis's creek; and is capable, at no great expense, of being rendered very practicable. The Shenandoah branch interlocks with James river about the Blue Ridge, and may perhaps in future be opened.

The *Mississippi* will be one of the principal channels of future commerce for the country westward of the Alleghany. From the mouth of this river to where it receives the Ohio, is one thousand miles by water, but only five hundred by land, passing through the Chickasaw country. From the mouth of the Ohio to that of the Missouri, is two hundred and thirty miles by water, and one hundred and forty by land, from thence to the mouth of the Illinois river, is about twenty-five miles. The Mississippi, below the mouth of the Missouri, is always muddy, and abounding with sand bars, which frequently change their places. However, it carries fifteen feet water to the mouth of the Ohio, to which place it is from one and a half to two miles wide, and thence to Kaskaskia from one mile to a mile and a quarter wide. Its current is so rapid, that it never can be stemmed by the force of the wind alone, acting on sails. Any vessel, however, navigated with oars, may come up at any time, and receive much aid from the wind. A batteau passes from the mouth of Ohio to the mouth of Mississippi in three weeks, and is from two to three months getting up again. During its floods, which are periodical as those of the Nile, the largest vessels may pass down it, if their steerage can be insured. These floods begin in April, and the river returns into its banks early

in August. The inundation extends further on the western than eastern side, covering the lands in some places for fifty miles from its banks. Above the mouth of the Missouri it becomes much such a river as the Ohio, like it clear and gentle in its current, not quite so wide, the period of its floods nearly the same, but not rising to so great a height. The streets of the village at Cohoes are not more than ten feet above the ordinary level of the water, and yet were never overflowed. Its bed deepens every year. Cohoes, in the memory of many people now living, was insulated by every flood of the river. What was the eastern channel has now become a lake, nine miles in length and one in width, into which the river at this day never flows. This river yields turtle of a peculiar kind, perch, trout, gar, pike, mullets, herrings, carp, spatula-fish of fifty pounds weight, cat-fish of one hundred pounds weight, buffalo fish, and sturgeon. Aligators or crocodiles have been seen as high up as the Acansas. It also abounds in herons, cranes, ducks, brant, geese, and swans. Its passage is commanded by a fort established by this State, five miles below the mouth of the Ohio, and ten miles above the Carolina boundary.

The Missouri, since the treaty of Paris, the Illinois and northern branches of the Ohio, since the cession to Congress, are no longer within our limits. Yet having been so heretofore, and still opening to us channels of extensive communication with the western and north-western country, they shall be noted in their order.

The *Missouri* is, in fact, the principal river, contributing more to the common stream than does the Mississippi, even after its junction with the Illinois. It is remarkably cold, muddy, and rapid. Its overflowings are considerable. They happen during the months of June and July. Their commencement being so much later than those of the Mississippi, would induce a belief that the sources of the Missouri are northward of those of the Mississippi, unless we suppose that the cold increases again with the ascent of the land from the Mississippi westwardly. That this ascent is great, is proved by the rapidity of the river. Six miles above the mouth, it is brought within the compass of a

quarter of a mile's width ; yet the Spanish merchants at Pancore, or St. Louis, say they go two thousand miles up it. It heads far westward of the Rio Norte, or North River. There is, in the villages of Kaskaskia, Cohoes, and St. Vincennes, no inconsiderable quantity of plate, said to have been plundered during the last war by the Indians from the churches and private houses of Santa Fé, on the North river, and brought to the villages for sale. From the mouth of the Ohio to Sante Fé are forty days journey, or about one thousand miles. What is the shortest distance between the navigable waters of the Missouri, and those of the North river, or how far this is navigable above Santa Fé, I could never learn. From Santa Fé to its mouth in the Gulf of Mexico is about twelve hundred miles. The road from New Orleans to Mexico crosses this river at the post of Rio Norte, eight hundred miles below Santa Fé, and from this post to New Orleans is about twelve hundred miles; thus making two thousand miles between Santa Fé and New Orleans, passing down the North river, Red river, and Mississippi ; whereas it is two thousand two hundred and thirty through the Missouri and Mississippi. From the same post of Rio Norte, passing near the mines of La Sierra and Laiguana, which are between the North river, and the river Salina to Sartilla, is three hundred and seventy-five miles, and from thence, passing the mines of Charcas, Zaccatecas, and Potosi, to the city of Mexico, is three hundred and seventy-five miles ; in all, one thousand five hundred and fifty miles from Santa Fé to the city of Mexico. From New Orleans to the city of Mexico is about one thousand nine hundred and fifty miles; the roads after setting out from the Red river, near Natchitoches, keeping generally parallel with the coast, and about two hundred miles from it, till it enters the city of Mexico.

The *Illinois* is a fine river, clear, gentle, and without rapids; insomuch that it is navigable for batteaux to its source. From thence is a portage of two miles only to the Chicago, which affords a batteau navigation of sixteen miles to its entrance into lake Michigan. The Illinois, about ten miles above its mouth, is three hundred yards wide.

The *Kaskaskia* is one hundred yards wide at its entrance into

the Mississippi, and preserves that breadth to the Buffalo plains, seventy miles above. So far, also, it is navigable for loaded batteaux, and perhaps much further. It is not rapid.

The *Ohio* is the most beautiful river on earth. Its current gentle, waters clear, and bosom smooth and unbroken by rocks and rapids, a single instance only excepted.

It is one-quarter of a mile wide at Fort Pitt, five hundred yards at the mouth of the Great Kanhaway, one mile and twenty-five poles at Louisville, one-quarter of a mile on the rapids three or four miles below Louisville, half a mile where the low country begins, which is twenty miles above Green river, a mile and a quarter at the receipt of the Tennessee, and a mile wide at the mouth.

Its length, as measured according to its meanders by Captain Hutchins, is as follows:—

From Fort Pitt

To Log's Town	18½	Little Miami	126½
Big Beaver Creek	10¾	Licking Creek	8
Little Beaver Creek	13½	Great Miami	26¾
Yellow Creek	11¾	Big Bones	32½
Two Creeks	21¾	Kentucky	44½
Long Reach	53¾	Rapids	77½
End Long Reach	16½	Low Country	155¾
Muskingum	25½	Buffalo River	64½
Little Kanhaway	12½	Wabash	97½
Hockhocking	16	Big Cave	42¾
Great Kanhaway	82½	Shawanee River	52½
Guiandot	43¾	Cherokee River	13
Sandy Creek	14½	Massac	11
Sioto	48½	Mississippi	46
			1188

In common winter and spring tides it affords fifteen feet water to Louisville, ten feet to Le Tarte's rapids, forty miles above the mouth of the great Kanhaway, and a sufficiency at all times for light batteaux and canoes to Fort Pitt. The rapids are in latitude 38° 8′. The inundations of this river begin about the last of March, and subside in July. During these, a first-rate man-of-war may be carried from Louisville to New Orleans, if the sudden turns of the river and the strength of its current will ad-

mit a safe steerage. The rapids at Louisville descend about thirty feet in a length of a mile and a half. The bed of the river there is a solid rock, and is divided by an island into two branches, the southern of which is about two hundred yards wide, and is dry four months in the year. The bed of the northern branch is worn into channels by the constant course of the water, and attrition of the pebble stones carried on with that, so as to be passable for batteaux through the greater part of the year. Yet it is thought that the southern arm may be the most easily opened for constant navigation. The rise of the waters in these rapids does not exceed ten or twelve feet. A part of this island is so high as to have been never overflowed, and to command the settlement at Louisville, which is opposite to it. The fort, however, is situated at the head of the falls. The ground on the south side rises very gradually.

The *Tennessee*, Cherokee, or Hogohege river, is six hundred yards wide at its mouth, a quarter of a mile at the mouth of Holston, and two hundred yards at Chotee, which is twenty miles above Holston, and three hundred miles above the mouth of the Tennessee. This river crosses the southern boundary of Virginia, fifty-eight miles from the Mississippi. Its current is moderate. It is navigable for loaded boats of any burden to the Muscle shoals, where the river passes through the Cumberland mountain. These shoals are six or eight miles long, passable downwards for loaded canoes, but not upwards, unless there be a swell in the river. Above these the navigation for loaded canoes and batteaux continues to the Long island. This river has its inundations also. Above the Chickamogga towns is a whirlpool called the Sucking-pot, which takes in trunks of trees or boats, and throws them out again half a mile below. It is avoided by keeping very close to the bank, on the south side. There are but a few miles portage between a branch of this river and the navigable waters of the river Mobile, which runs into the Gulf of Mexico.

Cumberland, or Shawanee river, intersects the boundary between Virginia and North Carolina sixty-seven miles from the Mississippi, and again one hundred and ninety-eight miles from

the same river, a little above the entrance of Obey's river into the Cumberland. Its Clear fork crosses the same boundary about three hundred miles from the Mississippi. Cumberland is a very gentle stream, navigable for loaded batteaux eight hundred miles, without interruption; then intervene some rapids of fifteen miles in length, after which it is again navigable seventy miles upwards, which brings you within ten miles of the Cumberland mountains. It is about one hundred and twenty yards wide through its whole course, from the head of its navigation to its mouth.

The *Wabash* is a very beautiful river, four hundred yards wide at the mouth, and three hundred at St. Vincennes, which is a post one hundred miles above the mouth, in a direct line. Within this space there are two small rapids, which give very little obstruction to the navigation. It is four hundred yards wide at the mouth, and navigable thirty leagues upwards for canoes and small boats. From the mouth of Maple river to that of Eel river is about eighty miles in a direct line, the river continuing navigable, and from one to two hundred yards in width. The Eel river is one hundred and fifty yards wide, and affords at all times navigation for periaguas, to within eighteen miles of the Miami of the Lake. The Wabash, from the mouth of Eel river to Little river, a distance of fifty miles direct, is interrupted with frequent rapids and shoals, which obstruct the navigation, except in a swell. Little river affords navigation during a swell to within three miles of the Miami, which thence affords a similar navigation into Lake Erie, one hundred miles distant in a direct line. The Wabash overflows periodically in correspondence with the Ohio, and in some places two leagues from its banks.

Green River is navigable for loaded batteaux at all times fifty miles upwards; but it is then interrupted by impassable rapids, above which the navigation again commences and continues good thirty or forty miles to the mouth of Barren river.

Kentucky River is ninety yards wide at the mouth, and also at Boonsborough, eighty miles above. It affords a navigation for loaded batteaux one hundred and eighty miles in a direct line, in the winter tides.

The *Great Miami* of the Ohio, is two hundred yards wide at the mouth. At the Piccawee towns, seventy-five miles above, it is reduced to thirty yards; it is, nevertheless, navigable for loaded canoes fifty miles above these towns. The portage from its western branch into the Miami of Lake Erie, is five miles; that from its eastern branch into Sandusky river, is of nine miles.

Salt River is at all times navigable for loaded batteaux seventy or eighty miles. It is eighty yards wide at its mouth, and keeps that width to its fork, twenty-five miles above.

The *Little Miami* of the Ohio, is sixty or seventy yards wide at its mouth, sixty miles to its source, and affords no navigation.

The *Sioto* is two hundred and fifty yards wide at its mouth, which is in latitude 38° 22′, and at the Saltlick towns, two hundred miles above the mouth, it is yet one hundred yards wide. To these towns it is navigable for loaded batteaux, and its eastern branch affords navigation almost to its source.

Great Sandy River is about sixty yards wide, and navigable sixty miles for loaded batteaux.

Guiandot is about the width of the river last mentioned, but is more rapid. It may be navigated by canoes sixty miles.

The *Great Kanhaway* is a river of considerable note for the fertility of its lands, and still more, as leading towards the head waters of James river. Nevertheless, it is doubtful whether its great and numerous rapids will admit a navigation, but at an expense to which it will require ages to render its inhabitants equal. The great obstacles begin at what are called the Great Falls, ninety miles above the mouth, below which are only five or six rapids, and these passable, with some difficulty, even at low water. From the falls to the mouth of Greenbriar is one hundred miles, and thence to the lead mines one hundred and twenty. It is two hundred and eighty yards wide at its mouth.

Hockhocking is eighty yards wide at its mouth, and yields navigation for loaded batteaux to the Press-place, sixty miles above its mouth.

The *Little Kanhaway* is one hundred and fifty yards wide at the mouth. It yields a navigation of ten miles only. Perhaps its northern branch, called Junius' creek, which interlocks

with the western of Monongahela, may one day admit a shorter passage from the latter into the Ohio.

The *Muskingum* is two hundred and eighty yards wide at its mouth, and two hundred yards at the lower Indian towns, one hundred and fifty miles upwards. It is navigable for small batteaux to within one mile of a navigable part of Cuyahoga river, which runs into Lake Erie.

At Fort Pitt the river Ohio loses its name, branching into the Monongahela and Alleghany.

The *Monongahela* is four hundred yards wide at its mouth. From thence is twelve or fifteen miles to the mouth of Yohogany, where it is three hundred yards wide. Thence to Redstone by water is fifty miles, by land thirty. Then to the mouth of Cheat river by water forty miles, by land twenty-eight, the width continuing at three hundred yards, and the navigation good for boats. Thence the width is about two hundred yards to the western fork, fifty miles higher, and the navigation frequently interrupted by rapids, which, however, with a swell of two or three feet, become very passable for boats. It then admits light boats, except in dry seasons, sixty-five miles further to the head of Tygart's valley, presenting only some small rapids and falls of one or two feet perpendicular, and lessening in its width to twenty yards. The *Western fork* is navigable in the winter ten or fifteen miles towards the northern of the Little Kanhaway, and will admit a good wagon road to it. The *Yahogany* is the principal branch of this river. It passes through the Laurel mountain, about thirty miles from its mouth; is so far from three hundred to one hundred and fifty yards wide, and the navigation much obstructed in dry weather by rapids and shoals. In its passage through the mountain it makes very great falls, admitting no navigation for ten miles to the Turkey Foot. Thence to the Great Crossing, about twenty miles, it is again navigable, except in dry seasons, and at this place is two hundred yards wide. The sources of this river are divided from those of the Potomac by the Alleghany mountain. From the falls, where it intersects the Laurel mountain, to Fort Cumberland, the head of the navigation on the Potomac, is forty miles

of very mountainous road. Wills' creek, at the mouth of which was Fort Cumberland, is thirty or forty yards wide, but affords no navigation as yet. *Cheat* river, another considerable branch of the Monongahela, is two hundred yards wide at its mouth, and one hundred yards at the *Dunkard's* settlement, fifty miles higher. It is navigable for boats, except in dry seasons. The boundary between Virginia and Pennsylvania crosses it about three or four miles above its mouth.

The *Alleghany* river, with a slight swell, affords navigation for light batteaux to Venango, at the mouth of French Creek, where it is two hundred yards wide, and is practised even to Le Bœuf, from whence there is a portage of fifteen miles to Presque Isle on the Lake Erie.

The country watered by the Mississippi and its eastern branches, constitutes five-eighths of the United States, two of which five-eighths are occupied by the Ohio and its waters; the residuary streams which run into the Gulf of Mexico, the Atlantic, and the St. Lawrence, water the remaining three-eighths.

Before we quit the subject of the western waters, we will take a view of their principal connections with the Atlantic. These are three; the Hudson river, the Potomac, and the Mississippi itself. Down the last will pass all heavy commodities. But the navigation through the Gulf of Mexico is so dangerous, and that up the Mississippi so difficult and tedious, that it is thought probable that European merchandise will not return through that channel. It is most likely that flour, timber, and other heavy articles will be floated on rafts, which will themselves be an article for sale as well as their loading, the navigators returning by land, or in light batteaux. There will, therefore, be a competition between the Hudson and Potomac rivers for the residue of the commerce of all the country westward of Lake Erie, on the waters of the lakes, of the Ohio, and upper parts of the Mississippi. To go to New York, that part of the trade which comes from the lakes or their waters, must first be brought into Lake Erie. Between Lake Superior and its waters and Huron, are the rapids of St. Mary, which will permit boats to pass, but not larger vessels. Lakes Huron and Michigan afford communication with

Lake Erie by vessels of eight feet draught. That part of the trade which comes from the waters of the Mississippi must pass from them through some portage into the waters of the lakes. The portage from the Illinois river into a water of Michigan is of one mile only. From the Wabash, Miami, Muskingum, or Alleghany, are portages into the waters of Lake Erie, of from one to fifteen miles. When the commodities are brought into, and have passed through Lake Erie, there is between that and Ontario an interruption by the falls of Niagara, where the portage is of eight miles; and between Ontario and the Hudson river are portages at the falls of Onondago, a little above Oswego, of a quarter of a mile; from Wood creek to the Mohawks river two miles; at the little falls of the Mohawks river half a mile; and from Schenectady to Albany sixteen miles. Besides the increase of expense occasioned by frequent change of carriage, there is an increased risk of pillage produced by committing merchandise to a greater number of hands successively. The Potomac offers itself under the following circumstances: For the trade of the lakes and their waters westward of Lake Erie, when it shall have entered that lake, it must coast along its southern shore, on account of the number and excellence of its harbors; the northern, though shortest, having few harbors, and these unsafe. Having reached Cuyahoga, to proceed on to New York it will have eight hundred and twenty-five miles and five portages; whereas it is but four hundred and twenty-five miles to Alexandria, its emporium on the Potomac, if it turns into the Cuyahoga, and passes through that, Big Beaver, Ohio, Yohogany, (or Monongahela and Cheat,) and Potomac, and there are but two portages; the first of which, between Cuyahoga and Beaver, may be removed by uniting the sources of these waters, which are lakes in the neighborhood of each other, and in a champaign country; the other from the waters of Ohio to Potomac will be from fifteen to forty miles, according to the trouble which shall be taken to approach the two navigations. For the trade of the Ohio, or that which shall come into it from its own waters or the Mississippi, it is nearer through the Potomac to Alexandria than to New York by five hundred and eighty miles, and it is

interrupted by one portage only. There is another circumstance of difference too. The lakes themselves never freeze, but the communications between them freeze, and the Hudson river is itself shut up by the ice three months in the year; whereas the channel to the Chesapeake leads directly into a warmer climate. The southern parts of it very rarely freeze at all, and whenever the northern do, it is so near the sources of the rivers, that the frequent floods to which they are there liable, break up the ice immediately, so that vessels may pass through the whole winter, subject only to accidental and short delays. Add to all this, that in case of war with our neighbors, the Anglo-Americans or the Indians, the route to New York becomes a frontier through almost its whole length, and all commerce through it ceases from that moment. But the channel to New York is already known to practice, whereas the upper waters of the Ohio and the Potomac, and the great falls of the latter, are yet to be cleared of their fixed obstructions. (A.)

QUERY III.

A notice of the best Seaports of the State, and how big are the vessels they can receive?

Having no ports but our rivers and creeks, this *Query* has been answered under the preceding one.

QUERY IV.

A notice of its Mountains?

For the particular geography of our mountains I must refer to Fry and Jefferson's map of Virginia; and to Evans' analysis of this map of America, for a more philosophical view of them than is to be found in any other work. It is worthy of notice, that our mountains are not solitary and scattered confusedly over the face of the country; but that they commence at about one

hundred and fifty miles from the sea-coast, are disposed in ridges, one behind another, running nearly parallel with the sea-coast, though rather approaching it as they advance north-eastwardly. To the south-west, as the tract of country between the sea-coast and the Mississippi becomes narrower, the mountains converge into a single ridge, which, as it approaches the Gulf of Mexico, subsides into plain country, and gives rise to some of the waters of that gulf, and particularly to a river called the Apalachicola, probably from the Apalachies, an Indian nation formerly residing on it. Hence the mountains giving rise to that river, and seen from its various parts, were called the Apalachian mountains, being in fact the end or termination only of the great ridges passing through the continent. European geographers, however, extended the name northwardly as far as the mountains extended; some giving it, after their separation into different ridges, to the Blue Ridge, others to the North Mountain, others to the Alleghany, others to the Laurel Ridge, as may be seen by their different maps. But the fact I believe is, that none of these ridges were ever known by that name to the inhabitants, either native or emigrant, but as they saw them so called in European maps. In the same direction, generally, are the veins of limestone, coal, and other minerals hitherto discovered; and so range the falls of our great rivers. But the courses of the great rivers are at right angles with these. James and Potomac penetrate through all the ridges of mountains eastward of the Alleghany; that is, broken by no water course. It is in fact the spine of the country between the Atlantic on one side, and the Mississippi and St. Lawrence on the other. The passage of the Potomac through the Blue Ridge is, perhaps, one of the most stupendous scenes in nature. You stand on a very high point of land. On your right comes up the Shenandoah, having ranged along the foot of the mountain an hundred miles to seek a vent. On your left approaches the Potomac, in quest of a passage also. In the moment of their junction, they rush together against the mountain, rend it asunder, and pass off to the sea. The first glance of this scene hurries our senses into the opinion, that this earth has been created in time, that the mountains were formed first, that the

rivers began to flow afterwards, that in this place, particularly, they have been dammed up by the Blue Ridge of mountains, and have formed an ocean which filled the whole valley; that continuing to rise they have at length broken over at this spot, and have torn the mountain down from its summit to its base. The piles of rock on each hand, but particularly on the Shenandoah, the evident marks of their disrupture and avulsion from their beds by the most powerful agents of nature, corroborate the impression. But the distant finishing which nature has given to the picture, is of a very different character. It is a true contrast to the foreground. It is as placid and delightful as that is wild and tremendous. For the mountain being cloven asunder, she presents to your eye, through the cleft, a small catch of smooth blue horizon, at an infinite distance in the plain country, inviting you, as it were, from the riot and tumult roaring around, to pass through the breach and participate of the calm below. Here the eye ultimately composes itself; and that way, too, the road happens actually to lead. You cross the Potomac above the junction, pass along its side through the base of the mountain for three miles, its terrible precipices hanging in fragments over you, and within about twenty miles reach Fredericktown, and the fine country round that. This scene is worth a voyage across the Atlantic. Yet here, as in the neighborhood of the Natural Bridge, are people who have passed their lives within half a dozen miles, and have never been to survey these monuments of a war between rivers and mountains, which must have shaken the earth itself to its centre. (B.)

The height of our mountains has not yet been estimated with any degree of exactness. The Alleghany being the great ridge which divides the waters of the Atlantic from those of the Missippi, its summit is doubtless more elevated above the ocean than that of any other mountain. But its relative height, compared with the base on which it stands, is not so great as that of some others, the country rising behind the successive ridges like the steps of stairs. The mountains of the Blue Ridge, and of these the Peaks of Otter, are thought to be of a greater height, measured from their base, than any others in our country, and perhaps

in North America. From data, which may found a tolerable conjecture, we suppose the highest peak to be about four thousand feet perpendicular, which is not a fifth part of the height of the mountains of South America, nor one-third of the height which would be necessary in our latitude to preserve ice in the open air unmelted through the year. The ridge of mountains next beyond the Blue Ridge, called by us the North mountain, is of the greatest extent; for which reason they were named by the Indians the endless mountains.

A substance supposed to be Pumice, found floating on the Mississippi, has induced a conjecture that there is a volcano on some of its waters; and as these are mostly known to their sources, except the Missouri, our expectations of verifying the conjecture would of course be led to the mountains which divide the waters of the Mexican Gulf from those of the South Sea; but no volcano having ever yet been known at such a distance from the sea, we must rather suppose that this floating substance has been erroneously deemed Pumice.

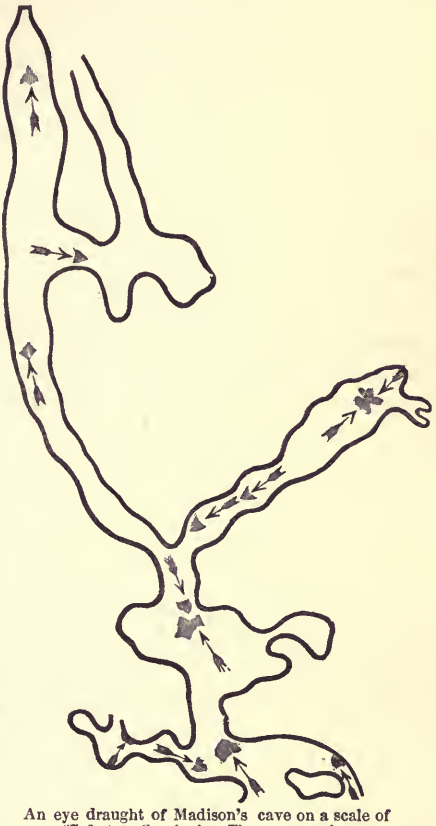
QUERY V.

Its Cascades and Caverns?

The only remarkable cascade in this country is that of the Falling Spring in Augusta. It is a water of James' river where it is called Jackson's river, rising in the warm spring mountains, about twenty miles south west of the warm spring, and flowing into that valley. About three-quarters of a mile from its source it falls over a rock two hundred feet into the valley below. The sheet of water is broken in its breadth by the rock, in two or three places, but not at all in its height. Between the sheet and the rock, at the bottom, you may walk across dry. This cataract will bear no comparison with that of Niagara as to the quantity of water composing it; the sheet being only twelve or fifteen feet wide above and somewhat more spread below; but it is half as high again, the latter being only one hundred and

fifty-six feet, according to the mensuration made by order of M. Vaudreuil, Governor of Canada, and one hundred and thirty according to a more recent account.

In the lime-stone country there are many caverns of very considerable extent. The most noted is called Madison's Cave, and is on the north side of the Blue Ridge, near the intersection of the Rockingham and Augusta line with the south fork of the southern river of Shenandoah. It is in a hill of about two hundred feet perpendicular height, the ascent of which, on one side, is so steep that you may pitch a biscuit from its summit into the river which washes its base. The entrance of the cave is, in this side, about two-thirds of the way up. It extends into the earth about three hundred feet, branching into subordinate caverns, sometimes ascending a little, but more generally descending, and at length terminates, in two different places, at basons of water of unknown extent, and which I should judge to be nearly on a level with the water of the river; however, I do not think they are formed by refluent water from that, because they are never turbid; because they do not rise and fall in correspondence with that in times of flood or of drought; and because the water is always cool. It is probably one of the many reservoirs with



An eye draught of Madison's cave on a scale of 67 feet to the inch. The arrows show where it descends or ascends.

which the interior parts of the earth are supposed to abound, and yield supplies to the fountains of water, distinguished from others only by being accessible. The vault of this cave is of solid lime-stone, from twenty to forty or fifty feet high; through which water is continually percolating. This, trickling down the sides of the cave, has incrusted them over in the form of elegant drapery; and dripping from the top of the vault generates on that and on the base below, stalactites of a conical form, some of which have met and formed massive columns.

Another of these caves is near the north mountain, in the county of Frederic, on the lands of Mr. Zane. The entrance into this is on the top of an extensive ridge. You descend thirty or forty feet, as into a well, from whence the cave extends, nearly horizontally, four hundred feet into the earth, preserving a breadth of from twenty to fifty feet, and a height of from five to twelve feet. After entering this cave a few feet, the mercury, which in the open air was 50°, rose to 57° of Fahrenheit's thermometer, answering to 11° of Reaumur's, and it continued at that to the remotest parts of the cave. The uniform temperature of the cellars of the observatory of Paris, which are ninety feet deep, and of all subterraneous cavities of any depth, where no chemical agencies may be supposed to produce a factitious heat, has been found to be 10° of Reaumur, equal to 54½° of Fahrenheit. The temperature of the cave above mentioned so nearly corresponds with this, that the difference may be ascribed to a difference of instruments.

At the Panther gap, in the ridge which divides the waters of the Crow and the Calf pasture, is what is called the *Blowing Cave.* It is in the side of a hill, is of about one hundred feet diameter, and emits constantly a current of air of such force as to keep the weeds prostrate to the distance of twenty yards before it. This current is strongest in dry, frosty weather, and in long spells of rain weakest. Regular inspirations and expirations of air, by caverns and fissures, have been probably enough accounted for by supposing them combined with intermitting fountains; as they must of course inhale air while their reservoirs are emptying themselves, and again emit it while they are filling.

But a constant issue of air, only varying in its force as the weather is drier or damper, will require a new hypothesis. There is another blowing cave in the Cumberland mountain, about a mile from where it crosses the Carolina line. All we know of this is, that it is not constant, and that a fountain of water issues from it.

The *Natural Bridge*, the most sublime of nature's works, though not comprehended under the present head, must not be pretermitted. It is on the ascent of a hill, which seems to have been cloven through its length by some great convulsion. The fissure, just at the bridge, is, by some admeasurements, two hundred and seventy feet deep, by others only two hundred and five. It is about forty-five feet wide at the bottom and ninety feet at the top; this of course determines the length of the bridge, and its height from the water. Its breadth in the middle is about sixty feet, but more at the ends, and the thickness of the mass, at the summit of the arch, about forty feet. A part of this thickness is constituted by a coat of earth, which gives growth to many large trees, The residue, with the hill on both sides, is one solid rock of lime-stone. The arch approaches the semi-elliptical form; but the larger axis of the ellipsis, which would be the cord of the arch, is many times longer than the transverse. Though the sides of this bridge are provided in some parts with a parapet of fixed rocks, yet few men have resolution to walk to them, and look over into the abyss. You involuntarily fall on your hands and feet, creep to the parapet, and peep over it. Looking down from this height about a minute, gave me a violent head-ache. If the view from the top be painful and intolerable, that from below is delightful in an equal extreme. It is impossible for the emotions arising from the sublime to be felt beyond what they are here; so beautiful an arch, so elevated, so light, and springing as it were up to heaven! the rapture of the spectator is really indescribable! The fissure continuing narrow, deep, and straight, for a considerable distance above and below the bridge, opens a short but very pleasing view of the North mountain on one side and the Blue Ridge on the other, at the distance each of them of about five miles. This

bridge is in the county of Rockbridge, to which it has given name, and affords a public and commodious passage over a valley which cannot be crossed elsewhere for a considerable distance. The stream passing under it is called Cedar-creek. It is a water of James' river, and sufficient in the driest seasons to turn a grist-mill, though its fountain is not more than two miles above.*

QUERY VI.

A notice of the mines and other subterraneous riches; its trees, plants, fruits, &c.

I knew a single instance of gold found in this State. It was interspersed in small specks through a lump of ore of about four

*Don Ulloa mentions a break, similar to this, in the province of Angaraez, in South America. It is from sixteen to twenty-two feet wide, one hundred and eleven feet deep, and of 1.3 miles continuance, English measure. Its breadth at top is not sensibly greater than at bottom. But the following fact is remarkable, and will furnish some light for conjecturing the probable origin of our natural bridge. "Esta caxa, ó cauce está cortada en péna viva con tanta precision, que las desigualdades del un lado entrantes, corresponden á las del otro lado salientes, como si aquella altura se hubiese abierto expresameute, con sus bueltas y tortuosidades, para darle transito á los aguas por entre los dos morallones que la forman; siendo tal su igualdad, que si llegasen á juntarse se endentarian uno con otro sin dextar hueco." Not. Amer. ii. § 10. Don Ulloa inclines to the opinion that this channel has been effected by the wearing of the water which runs through it, rather than that the mountain should have been broken open by any convulsion of nature. But if it had been worn by the running of water, would not the rocks which form the sides, have been worn plain? or if, meeting in some parts with veins of harder stone, the water had left prominences on the one side, would not the same cause have sometimes, or perhaps generally, occasioned prominences on the other side also? Yet Don Ulloa tells us, that on the other side there are always corresponding cavities, and that these tally with the prominences so perfectly, that, were the two sides to come together they would fit in all their indentures, without leaving any void. I think that this does not resemble the effect of running water, but looks rather as if the two sides had parted asunder. The sides of the break, over which is the natural bridge of Virginia, consisting of a veiny rock which yields to time, the correspondence between the salient and re-entering inequalities, if it existed at all, has now disappeared. This break has the advantage of the one described by Don Ulloa in its finest circumstance; no portion in that instance having held together, during the separation of the other parts, so as to form a bridge over the abyss.

pounds weight, which yielded seventeen pennyweights of gold, of extraordinary ductility. This ore was found on the north side of Rappahanoc, about four miles below the falls. I never heard of any other indication of gold in its neighborhood.

On the Great Kanhaway, opposite to the mouth of Cripple creek, and about twenty-five miles from our southern boundary, in the county of Montgomery, are mines of lead. The metal is mixed, sometimes with earth, and sometimes with rock, which requires the force of gunpowder to open it; and is accompanied with a portion of silver too small to be worth separation under any process hitherto attempted there. The proportion yielded is from fifty to eighty pounds of pure metal from one hundred pounds of washed ore. The most common is that of sixty to one hundred pounds. The veins are sometimes most flattering, at others they disappear suddenly and totally. They enter the side of the hill and proceed horizontally. Two of them are wrought at present by the public, the best of which is one hundred yards under the hill. These would employ about fifty laborers to advantage. We have not, however, more than thirty generally, and these cultivate their own corn. They have produced sixty tons of lead in the year; but the general quantity is from twenty to twenty-five tons. The present furnace is a mile from the ore bank and on the opposite side of the river. The ore is first wagoned to the river, a quarter of a mile, then laden on board of canoes and carried across the river, which is there about two hundred yards wide, and then again taken into wagons and carried to the furnace. This mode was originally adopted that they might avail themselves of a good situation on a creek for a pounding mill; but it would be easy to have the furnace and pounding mill on the same side of the river, which would yield water, without any dam, by a canal of about half a mile in length. From the furnace the lead is transported one hundred and thirty miles along a good road, leading through the peaks of Otter to Lynch's ferry, or Winston's on James' river, from whence it is carried by water about the same distance to Westham. This land carriage may be greatly shortened, by delivering the lead on James' river, above the Blue Ridge, from

whence a ton weight has been brought on two canoes. The Great Kanhaway has considerable falls in the neighborhood of the mines. About seven miles below are three falls, of three or four feet perpendicular each; and three miles above is a rapid of three miles continuance, which has been compared in its descent to the great falls of James' river. Yet it is the opinion, that they may be laid open for useful navigation, so as to reduce very much the portage between the Kanhaway and James' river.

A valuable lead mine is said to have been lately discovered in Cumberland, below the mouth of Red river. The greatest, however, known in the western country, are on the Mississippi, extending from the mouth of Rock river one hundred and fifty miles upwards. These are not wrought, the lead used in that country being from the banks on the Spanish side of the Mississippi, opposite to Kaskaskia.

A mine of copper was once opened in the county of Amherst, on the north side of James' river, and another in the opposite country, on the south side. However, either from bad management or the poverty of the veins, they were discontinued. We are told of a rich mine of native copper on the Ouabache, below the upper Wiaw.

The mines of iron worked at present are Callaway's, Ross's, and Ballendine's, on the south side of James' river; Old's on the north side, in Albemarle; Miller's in Augusta, and Zane's in Frederic. These two last are in the valley between the Blue Ridge and North mountain. Callaway's, Ross's, Miller's, and Zane's make about one hundred and fifty tons of bar iron each, in the year. Ross's makes also about sixteen hundred tons of pig iron annually; Ballendine's one thousand; Callaway's, Miller's, and Zane's, about six hundred each. Besides these, a forge of Mr. Hunter's, at Fredericksburg, makes about three hundred tons a year of bar iron, from pigs imported from Maryland; and Taylor's forge on Neapsco of Potomac, works in the same way, but to what extent I am not informed. The indications of iron in other places are numerous, and dispersed through all the middle country. The toughness of the cast iron of Ross's

and Zane's furnaces is very remarkable. Pots and other utensils, cast thinner than usual, of this iron, may be safely thrown into, or out of the wagons in which they are transported. Salt-pans made of the same, and no longer wanted for that purpose, cannot be broken up, in order to be melted again, unless previously drilled in many parts.

In the western country, we are told of iron mines between the Muskingum and Ohio; of others on Kentucky, between the Cumberland and Barren rivers, between Cumberland and Tennessee, on Reedy creek, near the Long Island, and on Chesnut creek, a branch of the Great Kanhaway, near where it crosses the Carolina line. What are called the iron banks, on the Mississippi, are believed, by a good judge, to have no iron in them. In general, from what is hitherto known of that country, it seems to want iron.

Considerable quantities of black lead are taken occasionally for use from Winterham in the county of Amelia. I am not able, however, to give a particular state of the mine. There is no work established at it; those who want, going and procuring it for themselves.

The country on James' river, from fifteen to twenty miles above Richmond, and for several miles northward and southward, is replete with mineral coal of a very excellent quality. Being in the hands of many proprietors, pits have been opened, and, before the interruption of our commerce, were worked to an extent equal to the demand.

In the western country coal is known to be in so many places, as to have induced an opinion, that the whole tract between the Laurel mountain, Mississippi, and Ohio, yields coal. It is also known in many places on the north side of the Ohio. The coal at Pittsburg is of very superior quality. A bed of it at that place has been a-fire since the year 1765. Another coal-hill on the Pike-run of Monongahela has been a-fire ten years; yet it has burnt away about twenty yards only.

I have known one instance of an emerald found in this country. Amethysts have been frequent, and crystals common; yet not in such numbers any of them as to be worth seeking.

There is very good marble, and in very great abundance, on James' river, at the mouth of Rockfish. The samples I have seen, were some of them of a white as pure as one might expect to find on the surface of the earth; but most of them were variegated with red, blue, and purple. None of it has been ever worked. It forms a very large precipice, which hangs over a navigable part of the river. It is said there is marble at Kentucky.

But one vein of limestone is known below the Blue Ridge. Its first appearance, in our country, is in Prince William, two miles below the Pignut ridge of mountains; thence it passes on nearly parallel with that, and crosses the Rivanna about five miles below it, where it is called the South-west ridge. It then crosses Hard-ware, above the mouth of Hudson's creek, James' river at the mouth of Rockfish, at the marble quarry before spoken of, probably runs up that river to where it appears again at Ross's iron-works, and so passes off south-westwardly by Flat Creek of Otter river. It is never more than one hundred yards wide. From the Blue Ridge westwardly, the whole country seems to be founded on a rock of limestone, besides infinite quantities on the surface, both loose and fixed. This is cut into beds, which range, as the mountains and sea-coast do, from south-west to north-east, the lamina of each bed declining from the horizon towards a parallelism with the axis of the earth. Being struck with this observation, I made, with a quadrant, a great number of trials on the angles of their declination, and found them to vary from 22° to 60°; but averaging all my trials, the result was within one-third of a degree of the elevation of the pole or latitude of the place, and much the greatest part of them taken separately were little different from that; by which it appears, that these lamina are, in the main, parallel with the axis of the earth. In some instances, indeed, I found them perpendicular, and even reclining the other way; but these were extremely rare, and always attended with signs of convulsion, or other circumstances of singularity, which admitted a possibility of removal from their original position. These trials were made between Madison's cave and the Potomac. We hear of

limestone on the Mississippi and Ohio, and in all the mountainous country between the eastern and western waters, not on the mountains themselves, but occupying the valleys between them.

Near the eastern foot of the North mountain are immense bodies of *Schist*, containing impressions of shells in a variety of forms. I have received petrified shells of very different kinds from the first sources of Kentucky, which bear no resemblance to any I have ever seen on the tide-waters. It is said that shells are found in the Andes, in South America, fifteen thousand feet above the level of the ocean. This is considered by many, both of the learned and unlearned, as a proof of an universal deluge. To the many considerations opposing this opinion, the following may be added: The atmosphere, and all its contents, whether of water, air, or other matter, gravitate to the earth; that is to say, they have weight. Experience tells us, that the weight of all these together never exceeds that of a column of mercury of thirty-one inches height, which is equal to one of rain water of thirty-five feet high. If the whole contents of the atmosphere, then, were water, instead of what they are, it would cover the globe but thirty-five feet deep; but as these waters, as they fell, would run into the seas, the superficial measure of which is to that of the dry parts of the globe, as two to one, the seas would be raised only fifty-two and a half feet above their present level, and of course would overflow the lands to that height only. In Virginia this would be a very small proportion even of the champaign country, the banks of our tide-waters being frequently, if not generally, of a greater height. Deluges beyond this extent, then, as for instance, to the North mountain or to Kentucky, seem out of the laws of nature. But within it they may have taken place to a greater or less degree, in proportion to the combination of natural causes which may be supposed to have produced them. History renders probably some instances of a partial deluge in the country lying round the Mediterranean sea. It has been often* supposed, and it is not unlikely, that that sea was once a lake. While such, let us admit an extraordinary collection of the waters of the atmosphere from the other parts

* 2 Buffon Epoques, 96.

of the globe to have been discharged over that and the countries whose waters run into it. Or without supposing it a lake, admit such an extraordinary collection of the waters of the atmosphere, and an influx from the Atlantic ocean, forced by long-continued western winds. The lake, or that sea, may thus have been so raised as to overflow the low lands adjacent to it, as those of Egypt and Armenia, which, according to a tradition of the Egyptians and Hebrews, were overflowed about two thousand three hundred years before the Christian era; those of Attica, said to have been overflowed in the time of Ogyges, about five hundred years later; and those of Thessaly, in the time of Deucalion, still three hundred years posterior. But such deluges as these will not account for the shells found in the higher lands. A second opinion has been entertained, which is, that in times anterior to the records either of history or tradition, the bed of the ocean, the principal residence of the shelled tribe, has, by some great convulsion of nature, been heaved to the heights at which we now find shells and other marine animals. The favorers of this opinion do well to suppose the great events on which it rests to have taken place beyond all the eras of history; for within these, certainly, none such are to be found; and we may venture to say farther, that no fact has taken place, either in our own days, or in the thousands of years recorded in history, which proves the existence of any natural agents, within or without the bowels of the earth, of force sufficient to heave, to the height of fifteen thousand feet, such masses as the Andes. The difference between the power necessary to produce such an effect, and that which shuffled together the different parts of Calabria in our days, is so immense, that from the existence of the latter, we are not authorized to infer that of the former.

M. de Voltaire has suggested a third solution of this difficulty. (Quest. Encycl. Coquilles.) He cites an instance in Touraine, where, in the space of eighty years, a particular spot of earth had been twice metamorphosed into soft stone, which had become hard when employed in building. In this stone shells of various kinds were produced, discoverable at first only with a microscope, but afterwards growing with the stone. From this

fact, I suppose, he would have us infer, that, besides the usual process for generating shells by the elaboration of earth and water in animal vessels, nature may have provided an equivalent operation, by passing the same materials through the pores of calcareous earths and stones; as we see calcareous drop-stones generating every day, by the percolation of water through limestone, and new marble forming in the quarries from which the old has been taken out. And it might be asked, whether is it more difficult for nature to shoot the calcareous juice into the form of a shell, than other juices into the forms of crystals, plants, animals, according to the construction of the vessels through which they pass? There is a wonder somewhere. Is it greatest on this branch of the dilemma; on that which supposes the existence of a power, of which we have no evidence in any other case; or on the first, which requires us to believe the creation of a body of water and its subsequent annihilation? The establishment of the instance, cited by M. de Voltaire, of the growth of shells unattached to animal bodies, would have been that of his theory. But he has not established it. He has not even left it on ground so respectable as to have rendered it an object of inquiry to the *literati* of his own country. Abandoning this fact, therefore, the three hypotheses are equally unsatisfactory; and we must be contented to acknowledge, that this great phenomenon is as yet unsolved. Ignorance is preferable to error; and he is less remote from the truth who believes nothing, than he who believes what is wrong.

There is great abundance (more especially when you approach the mountains) of stone, white, blue, brown, &c., fit for the chisel, good mill-stone, such also as stands the fire, and slate stone. We are told of flint, fit for gun-flints, on the Meherrin in Brunswick, on the Mississippi between the mouth of the Ohio and Kaskaskia, and on others of the western waters. Isinglass or mica is in several places; loadstone also; and an Asbestos of a ligneous texture, is sometimes to be met with.

Marle abounds generally. A clay, of which, like the Sturbridge in England, bricks are made, which will resist long the violent action of fire, has been found on Tuckahoe creek of

James' river, and no doubt will be found in other places. Chalk is said to be in Botetourt and Bedford. In the latter county is some earth believed to be gypseous. Ochres are found in various parts.

In the lime-stone country are many caves, the earthy floors of which are impregnated with nitre. On Rich creek, a branch of the Great Kanhaway, about sixty miles below the lead mines, is a very large one, about twenty yards wide, and entering a hill a quarter or half a mile. The vault is of rock, from nine to fifteen or twenty feet above the floor. A Mr. Lynch, who gives me this account, undertook to extract the nitre. Besides a coat of the salt which had formed on the vault and floor, he found the earth highly impregnated to the depth of seven feet in some places, and generally of three, every bushel yielding on an average three pounds of nitre. Mr. Lynch having made about ten hundred pounds of the salt from it, consigned it to some others, who have since made ten thousand pounds. They have done this by pursuing the cave into the hill, never trying a second time the earth they have once exhausted, to see how far or soon it receives another impregnation. At least fifty of these caves are worked on the Greenbriar. There are many of them known on Cumberland river.

The country westward of the Alleghany abounds with springs of common salt. The most remarkable we have heard of are at Bullet's-lick, the Big-bones, the Blue-licks, and on the north fork of Holston. The area of Bullet's-lick is of many acres. Digging the earth to the depth of three feet the water begins to boil up, and the deeper you go and the drier the weather, the stronger is the brine. A thousand gallons of water yield from a bushel to a bushel and a half of salt, which is about eighty pounds of water to one pound of salt. So that sea-water is more than three times as strong as that of these springs. A salt spring has been lately discovered at the Turkey foot on Yohogany, by which river it is overflowed, except at very low water. Its merit is not yet known. Dunning's lick is also as yet untried, but it is supposed to be the best on this side the Ohio. The salt springs on the margin of the Onondago lake are said to give a saline taste to the waters of the lake.

There are several medicinal springs, some of which are indubitably efficacious, while others seem to owe their reputation as much to fancy and change of air and regimen, as to their real virtues. None of them having undergone a chemical analysis in skilful hands, nor been so far the subject of observations as to have produced a reduction into classes of the disorders which they relieve; it is in my power to give little more than an enumeration of them.

The most efficacious of these are two springs in Augusta near the first sources of James' river, where it is called Jackson's river. They rise near the foot of the ridge of mountains generally called the Warm spring mountains, but in the maps Jackson's mountains. The one distinguished by the name of the Warm spring, and the other of the Hot spring. The Warm spring issues with a very bold stream, sufficient to work a grist mill and to keep the waters of its basin, which is thirty feet in diameter, at the vital warmth, viz. 96° of Fahrenheit's thermometer. The matter with which these waters is allied is very volatile; its smell indicates it to be sulphureous, as also does the circumstance of its turning silver black. They relieve rheumatisms. Other complaints also of very different natures have been removed or lessened by them. It rains here four or five days in every week.

The *Hot spring* is about six miles from the Warm, is much smaller, and has been so hot as to have boiled an egg. Some believe its degree of heat to be lessened. It raises the mercury in Fahrenheit's thermometer to 112 degrees, which is fever heat. It sometimes relieves where the Warm fails. A fountain of common water, issuing within a few inches of its margin, gives it a singular appearance. Comparing the temperature of these with that of the Hot springs of Kamschatka, of which Krachininnikow gives an account, the difference is very great, the latter raising the mercury to 200° which is within 12° of boiling water. These springs are very much resorted to in spite of a total want of accommodation for the sick. Their waters are strongest in the hottest months, which occasions their being visited in July and August principally.

The Sweet springs are in the county of Botetourt, at the eastern foot of the Alleghany, about forty-two miles from the Warm springs. They are still less known. Having been found to relieve cases in which the others had been ineffectually tried, it is probable their composition is different. They are different also in their temperature, being as cold as common water; which is not mentioned, however, as a proof of a distinct impregnation. This is among the first sources of James' river.

On Potomac river, in Berkley county, above the North mountain, are medicinal springs, much more frequented than those of Augusta. Their powers, however, are less, the waters weakly mineralized, and scarcely warm. They are more visited, because situated in a fertile, plentiful, and populous country, better provided with accommodations, always safe from the Indians, and nearest to the more populous States.

In Louisa county, on the head waters of the South Ann branch of York river, are springs of some medicinal virtue. They are not much used however. There is a weak chalybeate at Richmond; and many others in various parts of the country, which are of too little worth, or too little note, to be enumerated after those before mentioned.

We are told of a sulphur spring on Howard's creek of Greenbriar, and another at Boonsborough on Kentucky.

In the low grounds of the Great Kanhaway, seven miles above the mouth of Elk river, and sixty-seven above that of the Kanhaway itself, is a hole in the earth of the capacity of thirty or forty gallons, from which issues constantly a bituminous vapor, in so strong a current as to give to the sand about its orifice the motion which it has in a boiling spring. On presenting a lighted candle or torch within eighteen inches of the hole it flames up in a column of eighteen inches in diameter, and four or five feet height, which sometimes burns out within twenty minutes, and at other times has been known to continue three days, and then has been still left burning. The flame is unsteady, of the density of that of burning spirits, and smells like burning pit coal. Water sometimes collects in the basin, which is remarkably cold, and is kept in ebullition by the vapor issuing through

it. If the vapor be fired in that state, the water soon becomes so warm that the hand cannot bear it, and evaporates wholly in a short time. This, with the circumjacent lands, is the property of His Excellency General Washington and of General Lewis.

There is a similar one on Sandy river, the flame of which is a column of about twelve inches diameter, and three feet high. General Clarke, who informs me of it, kindled the vapor, staid about an hour, and left it burning.

The mention of uncommon springs leads me to that of Syphon fountains. There is one of these near the intersection of the Lord Fairfax's boundary with the North mountain, not far from Brock's gap, on the stream of which is a grist mill, which grinds two bushel of grain at every flood of the spring; another near Cow-pasture river, a mile and a half below its confluence with the Bull-pasture river, and sixteen or seventeen miles from Hot springs, which intermits once in every twelve hours; one also near the mouth of the north Holston.

After these may be mentioned the *Natural Well*, on the lands of a Mr. Lewis in Frederick county. It is somewhat larger than a common well; the water rises in it as near the surface of the earth as in the neighboring artificial wells, and is of a depth as yet unknown. It is said there is a current in it tending sensibly downwards. If this be true, it probably feeds some fountain, of which it is the natural reservoir, distinguished from others, like that of Madison's cave, by being accessible. It is used with a bucket and windlass as an ordinary well.

A complete catalogue of the trees, plants, fruits, &c., is probably not desired. I will sketch out those which would principally attract notice, as being first, Medicinal; second, Esculent; third, Ornamental; or four, useful for fabrication; adding the Linnæan to the popular names, as the latter might not convey precise information to a foreigner. I shall confine myself too to native plants.

1. Senna. Cassia ligustrina.
Arsmart. Polygonum Sagittatum.
Clivers, or goose-grass. Galium spurium.
Lobelia of several species.

Palma Christi. Ricinus.
(3,) Jamestown weed. Datura Stramonium.
Mallow. Malva rotundafolia.
Syrian mallow. Hibiscus moschentos.
Hibiscus Virginicus.
Indian mallow. Sida rhombifolia.
Sida abutilon.
Virginia marshmallow. Napæa hermaphrodita.
Napæa dioica.
Indian physic. Spiria trifoliata.
Euphorbia Ipecacuanhæ.
Pleurisy root. Asclepias decumbens.
Virginia snake-root. Aristolochia serpentaria.
Black snake-root. Actæ racemosa.
Seneca rattlesnake-root. Polygala Senega.
Valerian. Valeriana locusta radiata.
Gentiana, Saponaria, Villosa & Centaurium.
Ginseng. Panax quinquefolium.
Angelica. Angelica sylvestris.
Cassava. Jatropha urens.
2. Tuckahoe. Lycoperdon tuber.
Jerusalem artichoke. Helianthus tuberosus.
Long potatoes. Convolvulas batatas.
Granadillas. Maycocks, Maracocks, Passiflora incarnata.
Panic. Panicum of many species.
Indian millet. Holcus laxus.
Indian millet. Holcus striosus.
Wild oat. Zizania aquaticia.
Wild pea. Dolichos of Clayton.
Lupine. Lupinus perennis.
Wild hop. Humulus lupulus.
Wild cherry. Prunus Virginiana.
Cherokee plum. Prunus sylvestris fructu majori. Clayton.
Wild plum. Prunus sylvestris fructu minori. Clayton.
Wild crab apple. Pyrus coronaria.
Red mulberry. Morus rubra.
Persimmon. Diospiros Virginiana.
Sugar maple. Acer saccarinum.
Scaly bark hiccory. Juglans alba cortice squamoso. Clayton.
Common hiccory. Juglans alba, fructu minore rancido. Clayton.
Paccan, or Illinois nut. Not described by Linnæus, Millar, or Clayton. Were I to venture to describe this, speaking of the fruit from memory, and of the leaf from plants of two years' growth, I should specify it as Juglans alba, foliolis lanceolatis, acuminatis, serratis, tomentosis, fructu minore, ovato, compresso, vix insculpto, dulci, putamine tenerrimo. It grows on the Illinois, Wabash, Ohio, and Mississippi. It is spoken of by Don Ulloa under the name of Pacanos, in his Noticias Americanas Entret. 6.

Black walnut Juglans nigra.
White walnut. Juglans alba.
Chesnut. Fagus castanea.
Chinquapin. Fagus pumila.
Hazlenut. Corylus avellana.
Grapes. Vitis. Various kinds; though only three described by Clayton
Scarlet strawberries. Fragaria Virginiana of Millar
Whortleberries. Vaccinium uliginosum.
Wild gooseberries. Ribes grossularia.
Cranberries. Vaccinium oxycoccos.
Black raspberries. Rubus occidentalis.
Blackberries. Rubus fructicosus.
Dewberries. Rubus cæsius.
Cloudberries. Rubus Chamæmorus.

3. Plane tree. Platanus occidentalis.
Poplar. Liriodendron tulipifera.
Populus heterophylla.
Black poplar. Populus nigra.
Aspen. Populus tremula.
Linden, or lime. Telia Americana.
Red flowering maple. Acer rubrum.
Horse-chesnut, or buck's-eye. Æsculus pavia.
Catalpa. Bignonia catalpa.
Umbrella. Magnolia tripetala
Swamp laurel. Magnolia glauca.
Cucumber-tree. Magnolia acuminata.
Portugal bay. Laurus indica.
Red bay. Laurus borbonia.
Dwarf-rose bay. Rhododendron maximum.
Laurel of the western country. Qu. species?
Wild pimento. Laurus benzoin.
Sassafras. Laurus sassafras.
Locust. Robinia pseudo-acacia.
Honey-locust. Gleditsia. l. *6*
Dogwood. Cornus florida.
Fringe, or snow-drop tree. Chionanthus Virginica.
Barberry. Barberis vulgaris.
Redbud, or Judas-tree. Cercis Canadensis.
Holly. Ilex aquifolium.
Cockspur hawthorn. Cratægus coccinea.
Spindle-tree. Euonymus Europæus.
Evergreen spindle-tree. Euonymus Americanus.
Itea Virginica.
Elder. Sambucus nigra.
Papaw. Annona triloba.
Candleberry myrtle. Myrica cerifera.
Dwarf laurel. Kalmia angustifolia, Kalmia latifolia } called ivy with us.

Ivy. Hedera quinquefolia.
Trumpet honeysuckle. Lonicera sempervirens.
Upright honeysuckle. Azalea nudiflora.
Yellow jasmine. Bignonia sempervirens.
Calycanthus floridus.
American aloe. Agave Virginica.
Sumach. Rhus. Qu. species?
Poke. Phytolacca decandra.
Long moss. Tillandsia Usneoides.
4. Reed. Aruudo phragmitis.
Virginia hemp. Acnida cannabina.
Flax. Linum Virginianum.
Black, or pitch-pine. Pinus tæda.
White pine, Pinus strobus.
Yellow pine. Pinus Virginica.
Spruce pine. Pinus foliis singularibus. Clayton.
Hemlock spruce Fir. Pinus Canadensis.
Abor vitæ. Thuya occidentalis.
Juniper. Juniperus Virginica (called cedar with us.)
Cypress. Cupressus disticha.
White cedar. Cupressus Thyoides.
Black oak. Quercus nigra.
White oak. Quercus alba.
Red oak. Quercus rubra.
Willow oak. Quercus phellos.
Chesnut oak. Quercus prinus.
Black jack oak. Quercus aquatica. Clayton.
Ground oak. Quercus pumila. Clayton.
Live oak. Quercus Virginiana. Millar.
Black birch. Betula nigra.
White birch. Betula alba.
Beach. Fagus sylvatica.
Ash. Fraxinus Americana.
Fraxinus Novæ Angliæ. Millar.
Elm. Ulmus Americana.
Willow. Salix. Qu. species?
Sweet gum. Liquidambar styraciflua.

The following were found in Virginia when first visited by the English; but it is not said whether of spontaneous growth, or by cultivation only. Most probably they were natives of more southern climates, and handed along the continent from one nation to another of the savages.

Tobacco. Nicotiana.
Maize. Zea mays.

Round potatoes. Solanum tuberosum.
Pumpkins. Cucurbita pepo.
Cymlings. Cucurbita verrucosa.
Squashes. Cucurbita melopepo.

There is an infinitude of other plants and flowers, for an enumeration and scientific description of which I must refer to the Flora Virginica of our great botanist, Dr. Clayton, published by Gronovius at Leyden, in 1762. This accurate observer was a native and resident of this State, passed a long life in exploring and describing its plants, and is supposed to have enlarged the botanical catalogue as much as almost any man who has lived.

Besides these plants, which are native, our *farms* produce wheat, rye, barley, oats, buck-wheat, broom corn, and Indian corn. The climate suits rice well enough, wherever the lands do. Tobacco, hemp, flax, and cotton, are staple commodities. Indigo yields two cuttings. The silk-worm is a native, and the mulberry, proper for its food, grows kindly.

We cultivate, also, potatoes, both the long and the round, turnips, carrots, parsnips, pumkins, and ground nuts (Arachis.) Our grasses are lucerne, st. foin, burnet, timothy, ray, and orchard grass; red, white, and yellow clover; greensward, blue grass, and crab grass.

The *gardens* yield musk-melons, water-melons, tomatoes, okra, pomegranates, figs, and the esculant plants of Europe.

The *orchards* produce apples, pears, cherries, quinces, peaches, nectarines, apricots, almonds, and plums.

Our quadrupeds have been mostly described by Linnæus and Mons. de Buffon. Of these the mammoth, or big buffalo, as called by the Indians, must certainly have been the largest. Their tradition is, that he was carnivorous, and still exists in the northern parts of America. A delegation of warriors from the Delaware tribe having visited the Governor of Virginia, during the revolution, on matters of business, after these had been discussed and settled in council, the Governor asked them some questions relative to their country, and among others, what they knew or had heard of the animal whose bones were found at the

Saltlicks on the Ohio. Their chief speaker immediately put himself into an attitude of oratory, and with a pomp suited to what he conceived the elevation of his subject, informed him that it was a tradition handed down from their fathers, "That in ancient times a herd of these tremendous animals came to the Big-bone licks, and began an universal destruction of the bear, deer, elks, buffaloes, and other animals which had been created for the use of the Indians; that the Great Man above, looking down and seeing this, was so enraged that he seized his lightning, descended on the earth, seated himself on a neighboring mountain, on a rock of which his seat and the print of his feet are still to be seen, and hurled his bolts among them till the whole were slaughtered, except the big bull, who presenting his forehead to the shafts, shook them off as they fell; but missing one at length, it wounded him in the side; whereon, springing round, he bounded over the Ohio, over the Wabash, the Illinois, and finally over the great lakes, where he is living at this day." It is well known, that on the Ohio, and in many parts of America further north, tusks, grinders, and skeletons of unparalleled magnitude, are found in great numbers, some lying on the surface of the earth, and some a little below it. A Mr. Stanley, taken prisoner near the mouth of the Tennessee, relates, that after being transferred through several tribes, from one to another, he was at length carried over the mountains west of the Missouri to a river which runs westwardly; that these bones abounded there, and that the natives described to him the animal to which they belonged as still existing in the northern parts of their country; from which description he judged it to be an elephant. Bones of the same kind have been lately found, some feet below the surface of the earth, in salines opened on the North Holston, a branch of the Tennessee, about the latitude of $36\frac{1}{2}^{\circ}$ north. From the accounts published in Europe, I suppose it to be decided that these are of the same kind with those found in Siberia. Instances are mentioned of like animal remains found in the more southern climates of both hemispheres; but they are either so loosely mentioned as to leave a doubt of the fact, so inaccurately described as not to authorize the classing them with the

great northern bones, or so rare as to found a suspicion that they have been carried thither as curiosities from the northern regions. So that, on the whole, there seem to be no certain vestiges of the existence of this animal farther south than the salines just mentioned. It is remarkable that the tusks and skeletons have been ascribed by the naturalists of Europe to the elephant, while the grinders have been given to the hippopotamus, or river horse. Yet it is acknowledged, that the tusks and skeletons are much larger than those of the elephant, and the grinders many times greater than those of the hippopotamus, and essentially different in form. Wherever these grinders are found, there also we find the tusks and skeleton; but no skeleton of the hippopotamus nor grinders of the elephant. It will not be said that the hippopotamus and elephant came always to the same spot, the former to deposit his grinders, and the latter his tusks and skeleton. For what became of the parts not deposited there? We must agree then, that these remains belong to each other, that they are of one and the same animal, that this was not a hippopotamus, because the hippopotamus had no tusks, nor such a frame, and because the grinders differ in their size as well as in the number and form of their points. That this was not an elephant, I think ascertained by proofs equally decisive. I will not avail myself of the authority of the celebrated* anatomist, who, from an examination of the form and structure of the tusks, has declared they were essentially different from those of the elephant; because another† anatomist, equally celebrated, has declared, on a like examination, that they are precisely the same. Between two such authorities I will suppose this circumstance equivocal. But, 1. The skeleton of the mammoth (for so the incognitum has been called) bespeaks an animal of five or six times the cubic volume of the elephant, as Mons. de Buffon has admitted. 2. The grinders are five times as large, are square, and the grinding surface studded with four or five rows of blunt points; whereas those of the elephant are broad and thin, and their grinding surface flat. 3. I have never heard an instance, and suppose there has been none, of the grinder of an elephant being found in America. 4.

* Hunter. † D'Aubenton.

From the known temperature and constitution of the elephant, he could never have existed in those regions where the remains of the mammoth have been found. The elephant is a native only of the torrid zone and its vicinities; if, with the assistance of warm apartments and warm clothing, he has been preserved in the temperate climates of Europe, it has only been for a small portion of what would have been his natural period, and no instance of his multiplication in them has ever been known. But no bones of the mammoth, as I have before observed, have been ever found further south than the salines of Holston, and they have been found as far north as the Arctic circle. Those, therefore, who are of opinion that the elephant and mammoth are the same, must believe, 1. That the elephant known to us can exist and multiply in the frozen zone; or, 2. That an eternal fire may once have warmed those regions, and since abandoned them, of which, however, the globe exhibits no unequivocal indications; or, 3. That the obliquity of the ecliptic, when these elephants lived, was so great as to include within the tropics all those regions in which the bones are found; the tropics being, as is before observed, the natural limits of habitation for the elephant. But if it be admitted that this obliquity has really decreased, and we adopt the highest rate of decrease yet pretended, that is, of one minute in a century, to transfer the northern tropic to the Arctic circle, would carry the existence of these supposed elephants two hundred and fifty thousand years back; a period far beyond our conception of the duration of animal bones less exposed to the open air than these are in many instances. Besides, though these regions would then be supposed within the tropics, yet their winters would have been too severe for the sensibility of the elephant. They would have had, too, but one day and one night in the year, a circumstance to which we have no reason to suppose the nature of the elephant fitted. However, it has been demonstrated, that, if a variation of obliquity in the ecliptic takes place at all, it is vibratory, and never exceeds the limits of nine degrees, which is not sufficient to bring these bones within the tropics. One of these hypotheses, or some other equally voluntary and inadmissible to cautious phi-

losophy, must be adopted to support the opinion that these are the bones of the elephant. For my own part, I find it easier to believe that an animal may have existed, resembling the elephant in his tusks, and general anatomy, while his nature was in other respects extremely different. From the 30th degree of south latitude to the 30th degree of north, are nearly the limits which nature has fixed for the existence and multiplication of the elephant known to us. Proceeding thence northwardly to 36½ degrees, we enter those assigned to the mammoth. The farther we advance north, the more their vestiges multiply as far as the earth has been explored in that direction; and it is as probable as otherwise, that this progression continues to the pole itself, if land extends so far. The centre of the frozen zone, then, may be the acmé of their vigor, as that of the torrid is of the elephant. Thus nature seems to have drawn a belt of separation between these two tremendous animals, whose breadth, indeed, is not precisely known, though at present we may suppose it about 6½ degrees of latitude; to have assigned to the elephant the regions south of these confines, and those north to the mammoth, founding the constitution of the one in her extreme of heat, and that of the other in the extreme of cold. When the Creator has therefore separated their nature as far as the extent of the scale of animal life allowed to this planet would permit, it seems perverse to declare it the same, from a partial resemblance of their tusks and bones. But to whatever animal we ascribe these remains, it is certain such a one has existed in America, and that it has been the largest of all terrestrial beings. It should have sufficed to have rescued the earth it inhabited, and the atmosphere it breathed, from the imputation of impotence in the conception and nourishment of animal life on a large scale; to have stifled, in its birth, the opinion of a writer, the most learned, too, of all others in the science of animal history, that in the new world, "La nature vivante est beaucoup moins agissante, beaucoup moins forte:"* that nature is less active, less energetic on one side of the globe than she is on the other. As if both sides were not warmed by the same genial sun; as if a

* Buffon, xviii. 112 edit. Paris, 1764.

soil of the same chemical composition was less capable of elaboration into animal nutriment; as if the fruits and grains from that soil and sun yielded a less rich chyle, gave less extension to the solids and fluids of the body, or produced sooner in the cartilages, membranes, and fibres, that rigidity which restrains all further extension, and terminates animal growth. The truth is, that a pigmy and a Patagonian, a mouse and a mammoth, derive their dimensions from the same nutritive juices. The difference of increment depends on circumstances unsearchable to beings with our capacities. Every race of animals seems to have received from their Maker certain laws of extension at the time of their formation. Their elaborate organs were formed to produce this, while proper obstacles were opposed to its further progress. Below these limits they cannot fall, nor rise above them. What intermediate station they shall take may depend on soil, on climate, on food, on a careful choice of breeders. But all the manna of heaven would never raise the mouse to the bulk of the mammoth.

The opinion advanced by the Count de Buffon,* is 1. That the animals common both to the old and new world are smaller in the latter. 2. That those peculiar to the new are on a smaller scale. 3. That those which have been domesticated in both have degenerated in America; and 4. That on the whole it exhibits fewer species. And the reason he thinks is, that the heats of America are less; that more waters are spread over its surface by nature, and fewer of these drained off by the hand of man. In other words, that *heat* is friendly, and *moisture* adverse to the production and development of large quadrupeds. I will not meet this hypothesis on its first doubtful ground, whether the climate of America be comparatively more humid? Because we are not furnished with observations sufficient to decide this question. And though, till it be decided, we are as free to deny as others are to affirm the fact, yet for a moment let it be supposed. The hypothesis, after this supposition, proceeds to another; that *moisture* is unfriendly to animal growth. The truth of this is inscrutable to us by reasonings *à priori*. Nature has

* Buffon, xviii. 100, 156.

hidden from us her *modus agendi.* Our only appeal on such questions is to experience; and I think that experience is against the supposition. It is by the assistance of *heat* and *moisture* that vegetables are elaborated from the elements of earth, air, water, and fire. We accordingly see the more humid climates produce the greater quantity of vegetables. Vegetables are mediately or immediately the food of every animal; and in proportion to the quantity of food, we see animals not only multiplied in their numbers, but improved in their bulk, as far as the laws of their nature will admit. Of this opinion is the Count de Buffon himself in another part of his work;* "en general il paroit ques les pays un peu *froids* conviennent mieux á nos boeufs que les pays chauds, et qu'ils sont d'autant plus gross et plus grands que le climat est plus *humide* et plus abondans en paturages. Les boeufs de Danemarck, de la Podolie, de l'Ulkraine et de la Tartarie qu habitent les Calmouques sont les plus grands de tous." Here then a race of animals, and one of the largest too, has been increased in its dimensions by *cold* and *moisture,* in direct opposition to the hypothesis, which supposes that these two circumstances diminish animal bulk, and that it is their contraries *heat* and *dryness* which enlarge it. But when we appeal to experience we are not to rest satisfied with a single fact. Let us, therefore, try our question on more general ground. Let us take two portions of the earth, Europe and America for instance, sufficiently extensive to give operation to general causes; let us consider the circumstances peculiar to each, and observe their effect on animal nature. America, running through the torrid as well as temperate zone, has more *heat* collectively taken, than Europe. But Europe, according to our hypothesis, is the *dryest.* They are equally adapted then to animal productions; each being endowed with one of those causes which befriend animal growth, and with one which opposes it. If it be thought unequal to compare Europe with America, which is so much larger, I answer, not more so than to compare America with the whole world. Besides, the purpose of the comparison is to try an hypothesis, which makes the size

* viii. 134.

of animals depend on the *heat* and *moisture* of climate. If, therefore, we take a region so extensive as to comprehend a sensible distinction of climate, and so extensive too as that local accidents, or the intercourse of animals on its borders, may not materially affect the size of those in its interior parts, we shall comply with those conditions which the hypothesis may reasonbly demand. The objection would be the weaker in the present case, because any intercourse of animals which may take place on the confines of Europe and Asia, is to the advantage of the former, Asia producing certainly larger animals than Europe. Let us then take a comparative view of the quadrupeds of Europe and America, presenting them to the eye in three different tables, in one of which shall be enumerated those found in both countries; in a second, those found in one only; in a third, those which have been domesticated in both. To facilitate the comparison, let those of each table be arranged in gradation according to their sizes, from the greatest to the smallest, so far as their sizes can be conjectured. The weights of the large animals shall be expressed in the English avoirdupoise and its decimals; those of the smaller, in the same ounce and its decimals. Those which are marked thus *, are actual weights of particular subjects, deemed among the largest of their species. Those marked thus †, are furnished by judicious persons, well acquainted with the species, and saying, from conjecture only, what the largest individual they had seen would probably have weighed. The other weights are taken from Messrs. Buffon and D'Aubenton, and are of such subjects as came casually to their hands for dissection. This circumstance must be remembered where their weights and mine stand opposed; the latter being stated not to produce a conclusion in favor of the American species, but to justify a suspension of opinion until we are better informed, and a suspicion, in the meantime, that there is no uniform difference in favor of either; which is all I pretend.

A comparative view of the Quadrupeds of Europe and of America.

I. ABORIGINALS OF BOTH.

	Europe. lb.	America. lb.
Mammoth		
Buffalo. Bison		*1800
White Bear. Ours blanc		
Carribou. Renne		
Bear. Ours	153.7	*410
Elk. Elan. Original palmated		
Red deer. Cerf	288.8	*273
Fallow Deer. Daim	167.8	
Wolf. Loup	69.8	
Roe. Chevreuil	56.7	
Glutton. Glouton. Carcajou		
Wild cat. Chat sauvage		†30
Lynx. Loup cervier	25.	
Beaver. Castor	18.5	*45
Badger. Blaireau	13.6	
Red fox. Renard	13.5	
Gray fox. Isatis		
Otter. Loutre	8.9	†12
Monax. Marmotte	6.5	
Vison. Fouine	2.8	
Hedgehog. Herisson	2.2	
Marten. Marte	1.9	†6
Water rat. Rat d'eau	oz. 7.5	
Weasel. Belette	2.2	oz.
Flying squirrel. Polatouche	2.2	†4
Shrew moseu Musaraigne	1.	

II. ABORIGINALS OF ONE ONLY.

EUROPE.	lb.	AMERICA.	lb.
Sanglier. Wild boar	280.	Tapir	534.
Mouflon. Wild sheep	56.	Elk, round horned.	†450.
Bouquetin. Wild goat		Puma	
Lievre. Hare	7.6	Jaguar	218.
Lapin. Rabbit	3.4	Cabiai	109.
Putois. Polecat	3.3	Tamanoir	109.
Genette	3.1	Tammandua	65.4
Desman. Muskrat	oz.	Cougar of North-America	75.
Ecureuil. Squirrel	12.	Cougar of South-America	59.4
Hermine. Ermin	8.2	Ocelot	
Rat. Rat	7.5	Pecari	46.3
Loirs	3.1	Jaguaret	43.6
Lerot. Dormouse	1·8	Alco	
Taupe. Mole	1.2	Lama	
Hampster	.6	Paco	
Zisel		Paca	32.7

II. TABLE CONTINUED.

EUROPE.	lb.	AMERICA.	lb.
Leming		Serval	
Souris. Mouse	.6	Sloth. Unau	27.25
		Saricovienne	
		Kincajou	
		Tatou Kabassou	21.8
		Urson. Urchin	
		Raccoon. Raton	16.5
		Coati	
		Coendou	16.3
		Sloth. Aï	13.
		Sapajou Ouarini	
		Sapajou Coaita	9.8
		Tatou Encubert	
		Tatou Apar	
		Tatou Cachica	7.
		Little Coendou	6.5
		Opossum. Sarigu	
		Tapeti	
		Margay	
		Crabier	
		Agouti	4.2
		Sapajou Saï	3.5
		Tatou Cirquinçon	
		Tatou Tatouate	3.3
		Mouffette Squash	
		Mouffette Chinche	
		Mouffette Conepate	
		Scunk	
		Mouffette. Zorilla	
		Whabus. Hare. Rabbit	
		Aperea	
		Akouchi	
		Ondatra. Muskrat	
		Pilori	
		Great gray squirrel	†2.7
		Fox squirrel of Virginia	†2.625
		Surikate	2.
		Mink	†2.
		Sapajou. Sajou	1.8
		Indian pig. Cochon d'Inde	1.6
		Sapajou Saïmiri	1.5
		Phalanger	
		Coqualain	
		Lesser gray squirrel	†1.5
		Black squirrel	†1.5
		Red squirrel	10.oz.
		Sagoin Saki	
		Sagoin Pinche	
		Sagoin Tamarin	oz.
		Sagoin Ouistiti	4.4
		Sagoin Marakine	
		Sagoin Mico	
		Cayopollin	
		Fourmillier	
		Marmose	
		Sarigue of Cayenne	
		Tucan	
		Red mole	oz.
		Ground squirrel	4.

III. DOMESTICATED IN BOTH.

	Europe. lb.	America. lb.
Cow	765.	*2500
Horse		*1366
Ass		
Hog		*1200
Sheep		*125
Goat		*80
Dog	67.6	
Cat	7.	

I have not inserted in the first table the Phoca,* nor leather-winged bat, because the one living half the year in the water, and the other being a winged animal, the individuals of each species may visit both continents.

Of the animals in the first table, Monsieur de Buffon himself informs us, [XXVII. 130, XXX. 213,] that the beaver, the otter, and shrew mouse, though of the same species, are larger in America than in Europe. This should therefore have corrected the generality of his expressions, XVIII. 145, and elsewhere, that the animals common to the two countries, are considerably less in America than in Europe, "et cela sans aucune exception." He tells us too, [Quadrup. VIII. 334, edit. Paris 1777,] that on examining a bear from America, he remarked no difference, "dans *la forme* de cet ours d'Amerique comparé a celui d'Europe," but adds from Bartram's journal, that an American bear weighed four hundred pounds, English, equal to three hundred and sixty-seven pounds French; whereas we find the European bear examined by Mons. D'Aubenton, [XVII. 82,] weighed but one hundred and forty-one pounds French. That the palmated elk is larger in America than in Europe, we are informed by Kalm,† a naturalist, who visited the former by public appointment, for the express purpose of examining the subjects of natural

* It is said that this animal is seldom seen above thirty miles from shore, or beyond the 56th degree of latitude. The interjacent islands between Asia and America admit his passing from one continent to the other without exceeding these bounds. And in fact, travellers tell us that these islands are places of principal resort for them, and especially in the season of bringing forth their young.

† I. 233, Lon. 1772.

history. In this fact Pennant concurs with him. [Barrington's Miscellanies.] The same Kalm tells us* that the black moose, or renne of America, is as high as a tall horse ; and Catesby,† that it is about the bigness of a middle-sized ox. The same account of their size has been given me by many who have seen them. But Monsieur D'Aubenton says‡ that the renne of Europe is about the size of a red deer. The weasel is larger in America than in Europe, as may be seen by comparing its dimensions as reported by Monsieur D'Aubenton§ and Kalm. The latter tells us,‖ that the lynx, badger, red fox, and flying squirrel, are the *same* in America as in Europe ; by which expression I understand, they are the same in all material circumstances, in size as well as others ; for if they were smaller, they would differ from the European. Our gray fox is, by Catesby's account,¶ little different in size and shape from the European fox. I presume he means the red fox of Europe, as does Kalm, where he says,** that in size "they do not quite come up to our foxes." For proceeding next to the red fox of America, he says, "they are entirely the same with the European sort ;" which shows he had in view one European sort only, which was the red. So that the result of their testimony is, that the American gray fox is somewhat less than the European red ; which is equally true of the gray fox of Europe, as may be seen by comparing the measures of the Count de Buffon and Monsieur D'Aubenton.†† The white bear of America is as large as that of Europe. The bones of the mammoth which has been found in America, are as large as those found in the old world. It may be asked, why I insert the mammoth, as if it still existed ? I ask in return, why I should omit it, as if it did not exist ? Such is the economy of nature, that no instance can be produced, of her having permitted any one race of her animals to become extinct ; of her having formed any link in her great work so weak as to be broken. To add to this, the traditionary testimony of the Indians, that this animal still exists in the northern and western parts of America, would

* Ib. 233. † I. xxvii. ‡ XXIV. 162. § XV. 42.
‖ I. 359. I. 48, 221, 251. II. 52. ¶ II. 78. ** I. 220.
†† XXVII. 63. XIV. 119. Harris, II. 387. Buffon, Quad. IX. 1.

be adding the light of a taper to that of the meridian sun. Those parts still remain in their aboriginal state, unexplored and undisturbed by us, or by others for us. He may as well exist there now, as he did formerly where we find his bones. If he be a carnivorous animal, as some anatomists have conjectured, and the Indians affirm, his early retirement may be accounted for from the general destruction of the wild game by the Indians, which commences in the first instant of their connection with us, for the purpose of purchasing match-coats, hatchets, and firelocks, with their skins. There remain then the buffalo, red deer, fallow deer, wolf, roe, glutton, wild cat, monax, bison, hedgehog, marten, and water-rat, of the comparative sizes of which we have not sufficient testimony. It does not appear that Messieurs de Buffon and D'Aubenton have measured, weighed, or seen those of America. It is said of some of them, by some travellers, that they are smaller than the European. But who were these travellers? Have they not been men of a very different description from those who have laid open to us the other three quarters of the world? Was natural history the object of their travels? Did they measure or weigh the animals they speak of? or did they not judge of them by sight, or perhaps even from report only? Were they acquainted with the animals of their own country, with which they undertake to compare them? Have they not been so ignorant as often to mistake the species? A true answer to these questions would probably lighten their authority, so as to render it insufficient for the foundation of an hypothesis. How unripe we yet are, for an accurate comparison of the animals of the two countries, will appear from the work of Monsieur de Buffon. The ideas we should have formed of the sizes of some animals, from the information he had received at his first publications concerning them, are very different from what his subsequent communications give us. And indeed his candor in this can never be too much praised. One sentence of his book must do him immortal honor. "J'aime autant une personne qui me releve d'une erreur, qu'une autre qui m'apprend une verité, parce qu'en effet une erreur corrigée est une verité."*

* Quad. IX. 158.

He seems to have thought the cabiai he first examined wanted little of its full growth. "Il n'etoit pas encore tout-a-fait adulte."* Yet he weighed but forty-six and a half pounds, and he found afterwards,† that these animals, when full grown, weigh one hundred pounds. He had supposed, from the examination of a jaguar,‡ said to be two years old, which weighed but sixteen pounds twelve ounces, that when he should have acquired his full growth, he would not be larger than a middle-sized dog. But a subsequent account§ raises his weight to two hundred pounds. Further information will, doubtless, produce further corrections. The wonder is, not that there is yet something in this great work to correct, but that there is so little. The result of this view then is, that of twenty-six quadrupeds common to both countries, seven are said to be larger in America, seven of equal size, and twelve not sufficiently examined. So that the first table impeaches the first member of the assertion, that of the animals common to both countries, the American are smallest, "et cela sans aucune exception." It shows it is not just, in all the latitude in which its author has advanced it, and probably not to such a degree as to found a distinction between the two countries.

Proceeding to the second table, which arranges the animals found in one of the two countries only, Monsieur de Buffon observes, that the tapir, the elephant of America, is but of the size of a small cow. To preserve our comparison, I will add, that the wild boar, the elephant of Europe, is little more than half that size. I have made an elk with round or cylindrical horns an animal of America, and peculiar to it; because I have seen many of them myself, and more of their horns; and because I can say, from the best information, that, in Virginia, this kind of elk has abounded much, and still exists in smaller numbers; and I could never learn that the palmated kind had been seen here at all. I suppose this confined to the more northern latitudes.‖ I have made our hare or rabbit peculiar, believing it

* XXV. 184. † Quad. IX. 132. ‡ XIX. 2. § Quad. IX. 41.

‖ The descriptions of Theodat, Denys and La Honton, cited by Monsieur de Buffon, under the article Elan, authorize the supposition, that the flat-horned elk

to be different from both the European animals of those denominations, and calling it therefore by its Algonquin name, Whabus, to keep it distinct from these. Kalm is of the same opinion.* I have enumerated the squirrels according to our own knowledge, derived from daily sight of them, because I am not able to reconcile with that the European appellations and descriptions. I have heard of other species, but they have never come within my own notice. These, I think, are the only in-

is found in the northern parts of America. It has not however extended to our latitudes. On the other hand, I could never learn that the round-horned elk has been seen further north than the Hudson's river. This agrees with the former elk in its general character, being, like that, when compared with a deer, very much larger, its ears longer, broader, and thicker in proportion, its hair much longer, neck and tail shorter, having a dewlap before the breast (caruncula gutturalis Linnæi) a white spot often, if not always, of a foot diameter, on the hinder part of the buttocks round the tail; its gait a trot, and attended with a rattling of the hoofs; but distinguished from that decisively by its horns, which are not palmated, but round and pointed. This is the animal described by Catesby as the Cervus major Americanus, the stag of America, le Cerf de l'Amerique. But it differs from the Cervus as totally as does the palmated elk from the dama. And in fact it seems to stand in the same relation to the palmated elk, as the red deer does to the fallow. It has abounded in Virginia, has been seen, within my knowledge, on the eastern side of the Blue Ridge since the year 1765, is now common beyond those mountains, has been often brought to us and tamed, and its horns are in the hands of many. I should designate it as the "Alces Americanus cornibus teretibus." It were to be wished, that naturalists, who are acquainted with the renne and elk of Europe, and who may hereafter visit the northern parts of America, would examine well the animals called there by the names of gray and black moose, caribou, original and elk. Monsieur de Buffon has done what could be done from the materials in his hands, toward clearing up the confusion introduced by the loose application of these names among the animals they are meant to designate. He reduces the whole to the renne and flat-horned elk. From all the information I have been able to collect, I strongly suspect they will be found to cover three, if not four distinct species of animals. I have seen skins of a moose, and of the caribou: they differ more from each other, and from that of the round-horned elk, than I ever saw two skins differ which belonged to different individuals of any wild species. These differences are in the color, length, and coarseness of the hair, and in the size, texture, and marks of the skin. Perhaps it will be found that there is, 1, the moose, black and gray, the former being said to be the male, and the latter the female; 2, the caribou or renne; 3, the flat-horned elk, or original; 4, the round-horned elk. Should this last, though possessing so nearly the characters of the elk, be found to be the same with the Cerf d'Ardennes or Brandhitz of Germany, still there will remain the three species first enumerated.

* Kalm II. 340, I. 82.

stances in which I have departed from the authority of Monsieur de Buffon in the construction of this table. I take him for my ground work, because I think him the best informed of any naturalist who has ever written. The result is, that there are eighteen quadrupeds peculiar to Europe; more than four times as many, to wit, seventy four, peculiar to America; that the* first of these seventy-four weighs more than the whole column of Europeans; and consequently this second table disproves the second member of the assertion, that the animals peculiar to the new world are on a smaller scale, so far as that assertion relied on European animals for support; and it is in full opposition to the theory which makes the animal volume to depend on the circumstances of *heat* and *moisture*.

The third table comprehends those quadrupeds only which are domestic in both countries. That some of these, in some parts of America, have become less than their original stock, is doubtless true; and the reason is very obvious. In a thinly-peopled country, the spontaneous productions of the forests, and waste fields, are sufficient to support indifferently the domestic animals of the farmer, with a very little aid from him, in the severest and scarcest season. He therefore finds it more convenient to receive them from the hand of nature in that indifferent state, than to keep up their size by a care and nourishment which would cost him much labor. If, on this low fare, these animals dwindle, it is no more than they do in those parts of Europe where the poverty of the soil, or the poverty of the owner, reduces them to the same scanty subsistence. It is the uniform effect of one and the same cause, whether acting on this or that side of the globe. It would be erring, therefore, against this rule

* The Tapir is the largest of the animals peculiar to America. I collect his weight thus: Monsieur de Buffon says, XXIII. 274, that he is of the size of a Zebu, or a small cow. He gives us the measures of a Zebu, ib. 4, as taken by himself, viz. five feet seven inches from the muzzle to the root of the tail, and five feet one inch circumference behind the fore-legs. A bull, measuring in the same way six feet nine inches and five feet two inches, weighed six hundred pounds, VIII. 153. The Zebu then, and of course the Tapir, would weigh about five hundred pounds. But one individual of every species of European peculiars would probably weigh less than four hundred pounds. These are French measures and weights.

of philosophy, which teaches us to ascribe like effects to like causes, should we impute this diminution of size in America to any imbecility or want of uniformity in the operations of nature. It may be affirmed with truth, that, in those countries, and with those individuals in America, where necessity or curiosity has produced equal attention, as in Europe, to the nourishment of animals, the horses, cattle, sheep, and hogs, of the one continent are as large as those of the other. There are particular instances, well attested, where individuals of this country have imported good breeders from England, and have improved their size by care in the course of some years. To make a fair comparison between the two countries, it will not answer to bring together animals of what might be deemed the middle or ordinary size of their species; because an error in judging of that middle or ordinary size, would vary the result of the comparison. Thus Mons. D'Aubenton* considers a horse of 4 feet five inches high and 400lb. weight French, equal to 4 feet 8.6 inches and 436lb. English, as a middle-sized horse. Such a one is deemed a small horse in America. The extremes must therefore be resorted to. The same anatomist† dissected a horse of 5 feet 9 inches height, French measure, equal to 6 feet 1.7 English. This is near 6 inches higher than any horse I have seen; and could it be supposed that I had seen the largest horses in America, the conclusion would be, that ours have diminished, or that we have bred from a smaller stock. In Connecticut and Rhode Island, where the climate is favorable to the production of grass, bullocks have been slaughtered which weighed 2,500, 2,200, and 2,100 lbs. nett; and those of 1,800 lbs. have been frequent. I have seen a hog‡ weigh 1,050 lbs. after the blood, bowels, and hair had been taken from him. Before he was killed, an attempt was made to weigh him with a pair of steel yards, graduated to 1,200 lbs., but he weighed more. Yet this hog was probably not within fifty generations of the European stock. I am well informed of another which weighed 1,100 lbs. gross. Asses have been still more neglected than any other domestic animal in America. They are neither fed or housed in the most rigorous season of

* VII. 432. † VII. 474. ‡ In Williamsburg, April, 1769.

the year. Yet they are larger than those measured by Mons. D'Aubenton,* of 3 feet 7¼ inches, 3 feet 4 inches, and 3 feet 2½ inches, the latter weighing only 215.8 lbs. These sizes, I suppose, have been produced by the same negligence in Europe, which has produced a like diminution here. Where care has been taken of them on that side of the water, they have been raised to a size bordering on that of the horse; not by the *heat* and *dryness* of the climate, but by good food and shelter. Goats have been also much neglected in America. Yet they are very prolific here, bearing twice or three times a year, and from one to five kids at a birth. Mons. de Buffon has been sensible of a difference in this circumstance in favor of America.† But what are their greatest weights, I cannot say. A large sheep here weighs 100 lbs. I observe Mons. D'Aubenton calls a ram of 62 lbs. one of the middle size.‡ But to say what are the extremes of growth in these and the other domestic animals of America, would require information of which no one individual is possessed. The weights actually known and stated in the third table preceding will suffice to show, that we may conclude on probable grounds, that, with equal food and care, the climate of America will preserve the races of domestic animals as large as the European stock from which they are derived; and, consequently, that the third member of Mons. de Buffon's assertion that the domestic animals are subject to degeneration from the climate of America, is as probably wrong as the first and second were certainly so.

That the last part of it is erroneous, which affirms that the species of American quadrupeds are comparatively few, is evident from the tables taken together. By these it appears that there are an hundred species aboriginal in America. Mons. de Buffon supposes about double that number existing on the whole earth.§ Of these Europe, Asia, and Africa, furnish suppose one hundred and twenty-six; that is, the twenty-six common to Europe and America, and about one hundred which are not in America at all. The American species, then, are to those of the rest of the earth, as one hundred to one hundred and twenty-six, or four to

* VIII. 48, 55, 66. † XVIII. 96. ‡ IX. 41. § XXX. 219.

five. But the residue of the earth being double the extent of America, the exact proportion would have been but as four to eight.

Hitherto I have considered this hypothesis as applied to brute animals only, and not in its extension to the man of America, whether aboriginal or transplanted. It is the opinion of Mons. de Buffon that the former furnishes no exception to it.*

"Quoique le sauvage du nouveau monde soit à peu près de même stature que l'homme de notre monde, cela ne suffit pas pour qu'il puisse faire une exception au fait général du rapetissement de la nature vivante dans tout ce continent; le sauvage est foible et petit par les organes de la génération; il n'a ni poil, ni barbe, and nulle ardeur pour sa femelle. Quoique plus léger que l'Européen, parce qu'il a plus d'habitude à courir, il est cependant beaucoup moins fort de corps; il est aussi bien moins sensible, et cependant plus craintif et plus lâche; il n'a nulle vivacité, nulle activité dans l'ame; celle du corps est moins un exercise, un mouvement volontaire qu'une nécessité d'action causée par le besoin; ôtez lui la faim et la soif, vous détruirez en même tems le principe actif de tous ses mouvemens; il demeurera stupidement en repos sur ses jambes ou couché pendant des jours entiers. Il ne faut pas aller chercher plus loin à cause de la vie dispersée des sauvages et de leur éloignement pour la société; la plus précieuse étincelle du feu de la nature leur a été refusée; ils manquent d'ardeur pour leur femelle, et par consequent d'amour pour leur semblables; ne connoissant pas l'attachment le plus vif, le plus tendre de tous, leurs autres sentimens de ce genre, sont froids et languissans; ils aiment foiblement leurs pères et leurs enfans; la société la plus intime de toutes, celle de la même famille, n'a donc chez eux que de foibles liens; la société d'une famille à l'autre n'en a point de tout; dès lors nulle réunion, nulle république, nulle état social. La physique de l'amour fait chez eux le moral des mœurs; leur cœur est glacé, leur societé et leur empire dur. Ils ne regardent leurs femmes que comme des servantes de peine ou des bêtes de somme qu'ils chargent, sans ménagement, du fardeau de leur chasse, et qu'ils forcent, sans pitié, sans reconnoissance, à des ouvrages qui souvent sont au dessus de leurs forces; ils n'ont que peu d'enfans; ils en ont peu de soin; tout se ressent de leur premier defaut; ils sont indifférents parce qu'ils sont peu puissants, et cette indifference pour le sexe est la tache originelle qui flétrit la nature, qui l'empeche de s'épanouir, et qui detruisant les germes de la vie, coupe en même temps la racine de société. L'homme ne fait donc point d'exception ici. La nature en lui refusant les puissances de l'amour l'a plus maltraité et plus rapetissé qu'aucun des animaux."

An afflicting picture, indeed, which for the honor of human nature, I am glad to believe has no original. Of the Indian of South America I know nothing; for I would not honor with the appellation of knowledge, what I derive from the fables pub-

* XVIII. 146.

lished of them. These I believe to be just as true as the fables of Æsop. This belief is founded on what I have seen of man, white, red, and black, and what has been written of him by authors, enlightened themselves, and writing among an enlightened people. The Indian of North America being more within our reach, I can speak of him somewhat from my own knowledge, but more from the information of others better acquainted with him, and on whose truth and judgment I can rely. From these sources I am able to say, in contradiction to this representation, that he is neither more defective in ardor, nor more impotent with his female, than the white reduced to the same diet and exercise; that he is brave, when an enterprise depends on bravery; education with him making the point of honor consist in the destruction of an enemy by stratagem, and in the preservation of his own person free from injury; or, perhaps, this is nature, while it is education which teaches us to* honor force more than finesse; that he will defend himself against a host of enemies, always choosing to be killed, rather than to surrender,†

* Sol Rodomonte sprezza di venire
Se non, dove la via meno è ficura.—Aristo, 14, 117.

† In so judicious an author as Don Ulloa, and one to whom we are indebted for the most precise information we have of South America, I did not expect to find such assertions as the following: "Los Indios vencidos son los mas cobardes y pusilanimes que se peuden vér: Se hacen inöcentes, le humillan hasta el desprecio, disculpan su inconsiderado arrojo, y con las suplicas y los ruegos dán seguras pruebas de su pusilanimidad. ó lo que resieren las historias de la Conquista, sobre sus grandes acciones, es en un sendito figurado, ó el caracter de estas gentes no es ahora segun era entonces; pero lo que no tiene duda es, que las Naciones de la parte Septentrional subsisten en la misma libertad que siempre han tenido, sin haber sido sojuzgados por algon Principe extrano, y que viven segun su régimen y costumbres de toda la vida, sin que haya habido motivo para que muden de caracter; y en estos se vé lo mismo, que sucede en los Peru, y de toda la América Meridional, reducidos, y que nunca lo han estado." Noticias Americanas, Entretenimiento xviii. §. 1. Don Ulloa here admits, that the authors who have described the Indians of South America, before they were enslaved, had represented them as a brave people, and therefore seems to have suspected that the cowardice which he had observed in those of the present race might be the effect of subjugation. But, supposing the Indians of North America to be cowards also, he concludes the ancestors of those of South America to have been so too, and, therefore, that those authors have given fictions for truth. He was probably not acquainted himself with the Indians of North America, and had formed his opinion from hear-say. Great numbers of French, of English, and of Americans,

though it be to the whites, who he knows will treat him well; that in other situations, also, he meets death with more deliberation, and endures tortures with a firmness unknown almost to religious enthusiasm with us; that he is affectionate to his children, careful of them, and indulgent in the extreme; that his affections comprehend his other connections, weakening, as with us, from circle to circle, as they recede from the centre; that his friendships are strong and faithful to the uttermost* extremity; that his sensibility is keen, even the warriors weeping most bitterly on the loss of their children, though in general they endeavor to appear superior to human events; that his vivacity and activity of mind is equal to ours in the same situation; hence his eagerness for hunting, and for games of chance. The women are submitted to unjust drudgery. This I believe is the case with every barbarous people. With such, force is law. The stronger sex imposes on the weaker. It is civilization alone which replaces women in the enjoyment of their natural equality. That first teaches us to subdue the selfish passions, and to re-

are perfectly acquainted with these people. Had he had an opportunity of inquiring of any of these, they would have told him, that there never was an instance known of an Indian begging his life when in the power of his enemies; on the contrary, that he courts death by every possible insult and provocation. His reasoning, then, would have been reversed thus: "Since the present Indian of North America is brave, and authors tell us that the ancestors of those of South America were brave also, it must follow that the cowardice of their descendants is the effect of subjugation and ill treatment." For he observes, ib. §. 27, that "los obrages los aniquillan por la inhumanidad con que se les trata."

* A remarkable instance of this appeared in the case of the late Colonel Byrd, who was sent to the Cherokee nation to transact some business with them. It happened that some of our disorderly people had just killed one or two of that nation. It was therefore proposed in the council of the Cherokees that Colonel Byrd should be put to death, in revenge for the loss of their countrymen. Among them was a chief named Silòuee, who, on some former occasion, had contracted an acquaintance and friendship with Colonel Byrd. He came to him every night in his tent, and told him not to be afraid, they should not kill him. After many days' deliberation, however, the determination was, contrary to Silòuee's expectation, that Byrd should be put to death, and some warriors were despatched as executioners. Silòuee attended them, and when they entered the tent, he threw himself between them and Byrd, and said to the warriors, "This man is my friend; before you get at him, you must kill me." On which they returned, and the council respected the principle so much as to recede from their determination.

spect those rights in others which we value in ourselves. Were we in equal barbarism, our females would be equal drudges. The man with them is less strong than with us, but their women stronger than ours; and both for the same obvious reason; because our man and their woman is habituated to labor, and formed by it. With both races the sex which is indulged with ease is the least athletic. An Indian man is small in the hand and wrist, for the same reason for which a sailor is large and strong in the arms and shoulders, and a porter in the legs and thighs. They raise fewer children than we do. The causes of this are to be found, not in a difference of nature, but of circumstance. The women very frequently attending the men in their parties of war and of hunting, child-bearing becomes extremely inconvenient to them. It is said, therefore, that they have learned the practice of procuring abortion by the use of some vegetable; and that it even extends to prevent conception for a considerable time after. During these parties they are exposed to numerous hazards, to excessive exertions, to the greatest extremities of hunger. Even at their homes the nation depends for food, through a certain part of every year, on the gleanings of the forest; that is, they experience a famine once in every year. With all animals, if the female be badly fed, or not fed at all, her young perish; and if both male and female be reduced to like want, generation becomes less active, less productive. To the obstacles, then, of want and hazard, which nature has opposed to the multiplication of wild animals, for the purpose of restraining their numbers within certain bounds, those of labor and of voluntary abortion are added with the Indian. No wonder, then, if they multiply less than we do. Where food is regularly supplied, a single farm will show more of cattle, than a whole country of forests can of buffaloes. The same Indian women, when married to white traders, who feed them and their children plentifully and regularly, who exempt them from excessive drudgery, who keep them stationary and unexposed to accident, produce and raise as many children as the white women. Instances are known, under these circumstances, of their rearing a dozen children. An inhuman practice once prevailed in this

country, of making slaves of the Indians. It is a fact well known with us, that the Indian women so enslaved produced and raised as numerous families as either the whites or blacks among whom they lived. It has been said that Indians have less hair than the whites, except on the head. But this is a fact of which fair proof can scarcely be had. With them it is disgraceful to be hairy on the body. They say it likens them to hogs. They therefore pluck the hair as fast as it appears. But the traders who marry their women, and prevail on them to discontinue this practice, say, that nature is the same with them as with the whites. Nor, if the fact be true, is the consequence necessary which has been drawn from it. Negroes have notoriously less hair than the whites; yet they are more ardent. But if cold and moisture be the agents of nature for diminishing the races of animals, how comes she all at once to suspend their operation as to the physical man of the new world, whom the Count acknowledges to be "à peu près de même stature que l'homme de notre monde," and to let loose their influence on his moral faculties? How has this "combination of the elements and other physical causes, so contrary to the enlargement of animal nature in this new world, these obstacles to the development and formation of great germs,"* been arrested and suspended, so as to permit the human body to acquire its just dimensions, and by what inconceivable process has their action been directed on his mind alone? To judge of the truth of this, to form a just estimate of their genius and mental powers, more facts are wanting, and great allowance to be made for those circumstances of their situation which call for a display of particular talents only. This done, we shall probably find that they are formed in mind as well as in body, on the same module with the* "Homo sapiens Europæus." The principles of their society forbidding all compulsion, they are to be led to duty and to enterprise by personal influence and persuasion. Hence eloquence in council, bravery and address in war, become the foundations of all consequence with them. To these acquirements all their faculties are directed. Of their bravery and ad-

* XVIII. 146.

* Linn. Syst. Definition of a Man.

dress in war we have multiplied proofs, because we have been the subjects on which they were exercised. Of their eminence in oratory we have fewer examples, because it is displayed chiefly in their own councils. Some, however, we have, of very superior lustre. I may challenge the whole orations of Demosthenes and Cicero, and of any more eminent orator, if Europe has furnished more eminent, to produce a single passage, superior to the speech of Logan, a Mingo chief, to Lord Dunmore, then governor of this State. And as a testimony of their talents in this line, I beg leave to introduce it, first stating the incidents necessary for understanding it.

In the spring of the year 1774, a robbery was committed by some Indians on certain land-adventurers on the river Ohio. The whites in that quarter, according to their custom, undertook to punish this outrage in a summary way. Captain Michael Cresap, and a certain Daniel Greathouse, leading on these parties, surprised, at different times, travelling and hunting parties of the Indians, having their women and children with them, and murdered many. Among these were unfortunately the family of Logan, a chief celebrated in peace and war, and long distinguished as the friend of the whites. This unworthy return provoked his vengeance. He accordingly signalized himself in the war which ensued. In the autumn of the same year a decisive battle was fought at the mouth of the Great Kanhaway, between the collected forces of the Shawanese, Mingoes and Delawares, and a detachment of the Virginia militia. The Indians were defeated and sued for peace. Logan, however, disdained to be seen among the suppliants. But lest the sincerity of a treaty should be disturbed, from which so distinguished a chief absented himself, he sent, by a messenger, the following speech, to be delivered to Lord Dunmore.

"I appeal to any white man to say, if ever he entered Logan's cabin hungry, and he gave him not meat; if ever he came cold and naked, and he clothed him not. During the course of the last long and bloody war Logan remained idle in his cabin, an advocate for peace. Such was my love for the whites, that my countrymen pointed as they passed, and said, "Logan is the

friend of white men." I had even thought to have lived with you, but for the injuries of one man. Colonel Cresap, the last spring, in cold blood, and unprovoked, murdered all the relations of Logan, not even sparing my women and children. There runs not a drop of my blood in the veins of any living creature. This called on me for revenge. I have sought it: I have killed many: I have fully glutted my vengeance: for my country I rejoice at the beams of peace. But do not harbor a thought that mine is the joy of fear. Logan never felt fear. He will not turn on his heel to save his life. Who is there to mourn for Logan?—Not one."*

Before we condemn the Indians of this continent as wanting genius, we must consider that letters have not yet been introduced among them. Were we to compare them in their present state

* Philadelphia, December 31, 1797.

Dear Sir,—Mr. Tazewell has communicated to me the inquiries you have been so kind as to make, relative to a passage in the "Notes on Virginia," which has lately excited some newspaper publications. I feel, with great sensibility, the interest you take in this business, and with pleasure, go into explanations with one whose objects I know to be truth and justice alone. Had Mr. Martin thought proper to suggest to me, that doubts might be entertained of the transaction respecting Logan, as stated in the "Notes on Virginia," and to inquire on what grounds that statement was founded, I should have felt myself obliged by the inquiry; have informed him candidly of the grounds, and cordially have co-operated in every means of investigating the fact, and correcting whatsoever in it should be found to have been erroneous. But he chose to step at once into the newspapers, and in his publications there and the letters he wrote to me, adopted a style which forbade the respect of an answer. Sensible, however, that no act of his could absolve me from the justice due to others, as soon as I found that the story of Logan could be doubted, I determined to inquire into it as accurately as the testimony remaining, after a lapse of twenty odd years, would permit, and that the result should be made known, either in the first new edition which should be printed of the "Notes on Virginia," or by publishing an appendix. I thought that so far as that work had contributed to impeach the memory of Cresap, by handing on an erroneous charge it was proper it should be made the vehicle of retribution. Not that I was at all the author of the injury; I had only concurred, with thousands and thousands of others, in believing a transaction on authority which merited respect. For the story of Logan is only repeated in the "Notes on Virginia," precisely as it had been current for more than a dozen years before they were published. When Lord Dunmore returned from the expedition against the Indians, in 1774, he and his officers brought the speech of Logan, and related the circumstances of it. These were so affecting, and the

with the Europeans, north of the Alps, when the Roman arms and arts first crossed those mountains, the comparison would be unequal, because, at that time, those parts of Europe were swarming with numbers; because numbers produce emulation, and multiply the chances of improvement, and one improvement begets another. Yet I may safely ask, how many good poets, how

speech itself so fine a morsel of eloquence, that it became the theme of every conversation, in Williamsburg particularly, and generally, indeed, wheresoever any of the officers resided or resorted. I learned it in Williamsburg, I believe at Lord Dunmore's; and I find in my pocket-book of that year (1774) an entry of the narrative, as taken from the mouth of some person, whose name, however, is not noted, nor recollected, precisely in the words stated in the "Notes on Virginia" The speech was published in the Virginia Gazette of that time, (I have it myself in the volume of gazettes of that year,) and though it was the translation made by the common interpreter, and in a style by no means elegant, yet it was so admired, that it flew through all the public papers of the continent, and through the magazines and other periodical publications of Great Britain; and those who were boys at that day will now attest, that the speech of Logan used to be given them as a school exercise for repetition. It was not till about thirteen or fourteen years after the newspaper publications, that the "Notes on Virginia" were published in America. Combating, in these, the contumelious theory of certain European writers, whose celebrity gave currency and weight to their opinions, that our country from the combined effects of soil and climate, degenerated animal nature, in the general, and particularly the moral faculties of man, I considered the speech of Logan as an apt proof of the contrary, and used it as such; and I copied, verbatim, the narrative I had taken down in 1774, and the speech as it had been given us in a better translation by Lord Dunmore. I knew nothing of the Cresaps, and could not possibly have a motive to do them an injury with design. I repeated what thousands had done before, on as good authority as we have for most of the facts we learn through life, and such as, to this moment, I have seen no reason to doubt. That any body questioned it, was never suspected by me, till I saw the letter of Mr. Martin in the Baltimore paper. I endeavored then to recollect who among my contemporaries, of the same circle of society, and consequently of the same recollections, might still be alive; three and twenty years of death and dispersion had left very few. I remembered, however, that General Gibson was still living, and knew that he had been the translator of the speech. I wrote to him immediately. He, in answer, declares to me, that he was the very person sent by Lord Dunmore to the Indian town; that, after he had delivered his message there, Logan took him out to a neighboring wood; sat down with him, and rehearsing, with tears, the catastrophe of his family, gave him that speech for Lord Dunmore; that he carried it to Lord Dunmore; translated it for him; has turned to it in the Encyclopedia, as taken from the "Notes on Virginia," and finds that it was his translation I had used, with only two or three verbal variations of no importance. These, I suppose, had arisen in the course of successive copies. I cite General Gibson's letter by memory, not hav-

many able mathematicians, how many great inventors in arts or sciences, had Europe, north of the Alps, then produced? And it was sixteen centuries after this before a Newton could be formed. I do not mean to deny that there are varieties in the race of man, distinguished by their powers both of body and mind. I believe there are, as I see to be the case in the races

ing it with me; but I am sure I cite it substantially right. It establishes unquestionably, that the speech of Logan is genuine; and that being established, it is Logan himself who is author of all the important facts. "Colonel Cresap," says he, "in cold blood and unprovoked, murdered all the relations of Logan, not sparing even my women and children; there runs not a drop of my blood in the veins of any living creature." The person and the fact, in all its material circumstances, are here given by Logan himself. General Gibson, indeed, says, that the title was mistaken; that Cresap was a Captain, and not a Colonel. This was Logan's mistake. He also observes, that it was on another water of the Ohio, and not on the Kanhaway, that his family was killed. This is an error which has crept into the traditionary account; but surely of little moment in the moral view of the subject. The material question is, was Logan's family murdered, and by whom? That it was murdered has not, I believe, been denied; that it was by one of the Cresaps, Logan affirms. This is a question which concerns the memories of Logan and Cresap; to the issue of which I am as indifferent as if I had never heard the name of either. I have begun and shall continue to inquire into the evidence additional to Logan's, on which the fact was founded. Little, indeed, can now be heard of, and that little dispersed and distant. If it shall appear on inquiry, that Logan has been wrong in charging Cresap with the murder of his family, I will do justice to the memory of Cresap, as far as I have contributed to the injury, by believing and repeating what others had believed and repeated before me. If, on the other hand, I find that Logan was right in his charge, I will vindicate, as far as my suffrage may go, the truth of a Chief, whose talents and misfortunes have attached to him the respect and commiseration of the world.

I have gone, my dear Sir, into this lengthy detail to satisfy a mind, in the candor and rectitude of which I have the highest confidence. So far as you may incline to use the communication for rectifying the judgments of those who are willing to see things truly as they are, you are free to use it. But I pray that no confidence which you may repose in any one, may induce you to let it go out of your hands, so as to get into a newspaper: against a contest in that field I am entirely decided. I feel extraordinary gratification, indeed, in addressing this letter to you, with whom shades of difference in political sentiment have not prevented the interchange of good opinion, nor cut off the friendly offices of society and good correspondence. This political tolerance is the more valued by me, who consider social harmony as the first of human felicities, and the happiest moments, those which are given to the effusions of the heart. Accept them sincerely, I pray you, from one who has the honor to be, with sentiments of high respect and attachment, dear Sir, your most obedient, and most humble servant.

of other animals. . I only mean to suggest a doubt, whether the bulk and faculties of animals depend on the side of the Atlantic on which their food happens to grow, or which furnishes the elements of which they are compounded? Whether nature has enlisted herself as a Cis or Trans-Atlantic partisan? I am induced to suspect there has been more eloquence than sound reasoning displayed in support of this theory; that it is one of those cases where the judgment has been seduced by a glowing pen; and whilst I render every tribute of honor and esteem to the celebrated zoologist, who has added, and is still adding, so many precious things to the treasures of science, I must doubt whether in this instance he has not cherished error also, by lending her for a moment his vivid imagination and bewitching language. (4)

So far the Count de Buffon has carried this new theory of the tendency of nature to belittle her productions on this side the Atlantic. Its application to the race of whites transplanted from Europe, remained for the Abbé Raynal. "On doit etre etonné (he says) que l'Amerique n'ait pas encore produit un bon poëte, un habile mathematicien, un homme de genie dans un seul art, ou seule science." Hist. Philos. p. 92, ed. Maestricht, 1774. "America has not yet produced one good poet." When we shall have existed as a people as long as the Greeks did before they produced a Homer, the Romans a Virgil, the French a Racine and Voltaire, the English a Shakespeare and Milton, should this reproach be still true, we will inquire from what unfriendly causes it has proceeded, that the other countries of Europe and quarters of the earth shall not have inscribed any name in the roll of poets.* But neither has America produced "one able mathematician, one man of genius in a single art or a single science." In war we have produced a Washington, whose memory will be adored while liberty shall have votaries, whose

* Has the world as yet produced more than two poets, acknowledged to be such by all nations? An Englishman only reads Milton with delight, an Italian, Tasso, a Frenchman the Henriade; a Portuguese, Camoens; but Homer and Virgil have been the rapture of every age and nation; they are read with enthusiasm in their originals by those who can read the originals, and in translations by those who cannot.

name shall triumph over time, and will in future ages assume its just station among the most celebrated worthies of the world, when that wretched philosophy shall be forgotten which would have arranged him among the degeneracies of nature. In physics we have produced a Franklin, than whom no one of the present age has made more important discoveries, nor has enriched philosophy with more, or more ingenious solutions of the phenomena of nature. We have supposed Mr. Rittenhouse second to no astronomer living; that in genius he must be the first, because he is self-taught. As an artist he has exhibited as great a proof of mechanical genius as the world has ever produced. He has not indeed made a world; but he has by imitation approached nearer its Maker than any man who has lived from the creation to this day.* As in philosophy and war, so in government, in oratory, in painting, in the plastic art, we might show that America, though but a child of yesterday, has already given hopeful proofs of genius, as well as of the nobler kinds, which arouse the best feelings of man, which call him into action, which substantiate his freedom, and conduct him to happiness, as of the subordinate, which serve to amuse him only. We therefore suppose, that this reproach is as unjust as it is unkind: and that, of the geniuses which adorn the present age, America contributes its full share. For comparing it with those countries where genius is most cultivated, where are the most excellent models for art, and scaffoldings for the attainment of science, as France and England for instance, we calculate thus: The United States contains three millions of inhabitants; France twenty millions; and the British islands ten. We produce a Washington, a Franklin, a Rittenhouse. France then should have half a dozen in each of these lines, and Great Britain half that number, equally eminent. It may be true that France has; we are but just becoming acquainted with her, and our acquaintance so far gives us high ideas of the genius of her inhabitants. It

*There are various ways of keeping truth out of sight. Mr. Rittenhouse's model of the planetary system has the plagiary application of an Orrery; and the quadrant invented by Godfrey, an American also, and with the aid of which the European nations traverse the globe, is called Hadley's quadrant.

would be injuring too many of them to name particularly a Voltaire, a Buffon, the constellation of Encyclopedists, the Abbé Raynal himself, &c. &c. We, therefore, have reason to believe she can produce her full quota of genius. The present war having so long cut off all communication with Great Britain, we are not able to make a fair estimate of the state of science in that country. The spirit in which she wages war, is the only sample before our eyes, and that does not seem the legitimate offspring either of science or of civilization. The sun of her glory is fast descending to the horizon. Her philosophy has crossed the channel, her freedom the Atlantic, and herself seems passing to that awful dissolution whose issue is not given human foresight to scan.*

Having given a sketch of our minerals, vegetables, and quadrupeds, and being led by a proud theory to make a comparison of the latter with those of Europe, and to extend it to the man of America, both aboriginal and emigrant, I will proceed to the remaining articles comprehended under the present query.

Between ninety and a hundred of our birds have been described by Catesby. His drawings are better as to form and attitude than coloring, which is generally too high. They are the following:

* In a later edition of the Abbé Raynal's work, he has withdrawn his censure from that part of the new world inhabited by the Federo-Americans; but has left it still on the other parts. North America has always been more accessible to strangers than South. If he was mistaken then as to the former, he may be so as to the latter. The glimmerings which reach us from South America enable us to see that its inhabitants are held under the accumulated pressure of slavery, superstition and ignorance. Whenever they shall be able to rise under this weight, and to show themselves to the rest of the world, they will probably show they are like the rest of the world. We have not yet sufficient evidence that there are more lakes and fogs in South America than in other parts of the earth. As little do we know what would be their operation on the mind of man. That country has been visited by Spaniards and Portuguese chiefly, and almost exclusively. These, going from a country of the old world remarkably dry in its soil and climate, fancied there were more lakes and fogs in South America than in Europe. An inhabitant of Ireland, Sweden, or Finland would have formed the contrary opinion. Had South America then been discovered and settled by a people from a fenny country, it would probably have been represented as much drier than the old world. A patient pursuit of facts, and cautious combination and comparison of them, is the drudgery to which man is subjected by his Maker, if he wishes to attain sure knowledge.

Linnæan Designation.	Catesby's Designation.		Popular Names.	Buffon oiseaux.
Lanius tyrannus	Muscicapa coronâ rubrâ	1.55	Tyrant. Field martin	8.398
Vultur aura	Buteo specie Gallo pavonis	1. 6	Turkey buzzard	1.246
Falco leucocephalus	Aquila capite albo	1. 1	Bald eagle	1.138
Falco sparverius	Accipiter minor	1. 5	Little hawk. Sparrow hawk	
Falco columbarious	Accipiter palumbarius	1. 3	Pigeon hawk	1.338
Falco furcatus	Accipiter caudâ furcatâ	1. 4	Forked tail hawk	1.286.312
	Accipiter piscatorius	1. 2	Fishing hawk	1.199
Strix asio	Noctua aurita minor	1. 7	Little owl	1.141
Psittacus Caroliniensis	Psittacus Caroliniensus	1.11	Parrot of Carolina. Parroquet	11.383
Corvus cristatus	Pica glandaria, cærulea, cristata	1.15	Blue jay	5.164
Oriolus Baltimore	Icterus ex aureo nigroque varius	1.48	Baltimore bird	5.318
Oriolus spurius	Icterus minor	1.49	Bastard Baltimore	5.321
Gracula quiscula	Monedula purpurea	1.12	Purple jackdaw. Crow blackbird	5.134
Cuculus Americanus	Cuculus Caroliniensis	1. 9	Carolina cuckow	12.62
Picus principalis	Picus maximus rostro albo	1.16	White bill woodpecker	13.69
Picus pileatus	Picus niger maximus, capite rubro	1.17	Larger red-crested woodpecker	13.72
Picus erythrocephalus	Picus capite toto rubro	1.20	Red headed woodpecker	13.83
Picus auratus	Picus major alis aureis	1.18	Gold winged woodpecker. Yucker	13.59
Picus Carolinus	Picus ventre rubro	1.19	Red-bellied woodpecker	13.105
Picus pubescens	Picus varius minimus	1.21	Smallest spotted woodpecker	13.113
Picus villosus	Picus medius quasi-villosus	1.19	Hairy woodpecker. Spec. woodpecker	13.111
Picus varius	Picus varius minor ventre luteo	1.21	Yellow-bellied woodpecker	13.115
Sitta Europæa	Sitta capite nigro Sitta capite fusco	1.22 1.22	Nuthatch Small Nuthatch	10.213 10.214
Alcedo alcyon	Ispida	1.69	Kingfisher	13.310
Certhia pinus	Parus Americanus lutescens	1.61	Pine-Creeper	9.433
Trochilus colubris	Mellivora avis Caroliniensis	1.65	Humming bird	11.16
Anas Canadensis	Anser Canadensis	1.92	Wild goose	17.122
Anas bucephala	Anas minor purpureo capite	1.95	Buffel's-head duck	17.356
Anas rustica	Anas minor ex albo & fusco vario	1.98	Little brown duck	17.413
Anas discors. 6.	Querquedula Americana variegata	1.10	White face teal	17.403

Linnæan Designation.	Catesby's Designation.		Popular Names.	Buffon oiseaux.
Anas discors. 6.	Querquedula Americana fusca.	1.99	Blue wing teal	17.405
Anas sponsa	Anas Americanus eristatus elegans.	1.97	Summer duck	17.351
Mergus cucullatus	Anas Americanus lato rostro	1.96	Blue wing shoveler	17.275
Columbus podiceps	Anas eristatus	1.94	Round crested duck	15.437
Ardea Herodias	Prodicipes minor rostro vario	1.91	Pied bill dopchick	15.383
Ardea violacea	Ardea eristata maxima Americana.	3.10	Largest crested heron	14.113
Ardea cærulea	Ardea stellaris eristata Americana.	1.79	Crested bittern	14.134
Ardea virescens	Ardea cærulea	1.76	Blue heron. Crane	14.131
Ardea æquinoctialis	Ardea stellaris minima	1.80	Small bittern	14.142
Tantalus loculator	Ardea alba minor Caroliniensis.	1.77	Little white heron	14.136
Tantalus alber	Ardea stellaris Americana	1.78	Brown bittern. Indian hen	14.175
Tantalus fuscus	Pelicanus Americanus	1,81	Wood pelican	13.403
Charadrius vociferus	Numenius albus	1.82	White curlew	15.62
Hæmatopus ostralegus	Numenius fuscus.	1.83	Brown curlew	15.64
Rallus Virginianus	Pluvialis vociferus	1.71	Chattering plover. Kildee	15.151
Meleagris Gallopavo	Hæmatopus	1.85	Oyster-catcher	15.185
Tetrao Virginianus	Gallinula Americana	1.70	Soree. Ral-bird	15.256
	Gallopava Sylvestris	xliv.	Wild Turkey	3.187.229
	Perdix Sylvestris Virginiana	3.12	American partridge. American quail	4.237
	Urgallus minor, or kind of Lagopus.	3. 1	Pheasant. Mountain partridge	3.409
Columba passerina	Turtur minimus guttatus	1.26	Ground dove	4.404
Columba migratorio	Palumbus migratorius	1.23	Pigeon of passage. Wild pigeon	4.351
Columba Caroliniensis	Turtur Caroliniensis	1.24	Turtle. Turtle dove	4.401
Alauda alpestris	Alauda gutture flavo	1.32	Lark. Sky lark	9.79
Alauda magna	Alauda magna	1.33	Field lark. Large lark	6,59
	Sturnus niger allis superné rubentibus	1.13	Red wing. Starling. Marsh blackbird	5.293
Tardus migratorius	Turdus pilaris migratorius	1.29	Fieldfare of Carolina. Robin redbreast	5.426 / 9.257
Tardus rufus	Turdus rufus	1.28	Fox colored thrush. Thrush	5.449
Tardus polyglottos	Turdus minor cinereo albus non maculatus	1.27	Mocking bird	5.451

Ampelis garrulus. *6*	Turdus minimus	1.31	Little thrush	5.400
Loxia Cardinalis	Garrulus Caroliniensis	1.46	Chatterer	6.162
Loxia Cærulea	Coccothranstes rubra	1.38	Red bird. Virginia nightingale	6.185
Emberiza hyemalis	Coccothranstes cærulea	1.39	Blue gross beak	8.125
Emberiza Oryzivora	Passer nivalis	1.36	Snow bird	8.47
Emberiza Ciris	Hortulanus Caroliniensis	1.14	Rice bird	8.49
Tanagra cyanea	Fringilla tricolor	1.44	Painted finch	7.247
	Linaria cærulea	1.45	Blue linnet	7.122
	Passerculus	1.35	Little sparrow	7.120
	Passer fuscus	1.34	Cowpen bird	7.196
Fringilla erythrophthalma	Passer niger oculis rubris	1.34	Towhe bird	7.201
Fringilla tristis	Carduelis Americanus	1.43	American goldfinch. Lettuce bird	7.297
	Fringilla purpurea	1.41	Purple finch	8.129
Muscicapa crinita	Muscicapa cristata ventre luteo	1.52	Crested flycatcher	8.379
Muscicapa rubra	Muscicapa rubra	1.56	Summer red bird	8.410
Muscicapa ruticilla	Ruticilla Americana	1.67	Red start	{ 8.349 / 9.259
Muscicapa Caroliniensis	Muscicapa vertice nigro	1.66	Cat bird	8.372
	Muscicapa nigrescens	1.53	Black cap flycatcher	8.341
	Muscicapa fusca	1.54	Little brown flycatcher	8.344
	Muscicapa oculis rubris	1.54	Red-eyed flycatcher	8.337
Motacilla Sialis	Rubicula Americana cærulea	1.47	Blue bird	9.308
Motacilla regulus	Regulus cristatus	3.13	Wren	10.58
Motacilla trochilus. *6*	Oenanthe Americana pectore luteo.	1.50	Yellow breasted chat	6.96
Parus bicolor	Parus cristatus	1.57	Crested titmouse	10.181
Parus Americanus	Parus fringillaris	1.64	Finch creeper	9 442
Parus Virginianus	Parus uropygeo luteo.	1.58	Yellow rump	10.184
	Parus cucullo nigro	1.60	Hooded titmouse	10.183
	Parus Americanus gutture luteo	1.62	Yellow throated creeper	
	Parus Caroliniensis	1.63	Yellow titmouse	9.431
Hirundo Pelasgia	Hirundo cauda aculeata Americana.	3. 8	American swallow	12.478
Hirundo purpurea	Hirundo purpurea	1.51	Purple marten. House marten	12.445
Caprimulgus Europæus. *a*	Caprimulgus	1. 8	Goatsucker. Great bat	12.243
Caprimulgus Europæus. *6*	Caprimulgus minor Americanus	3.16	Whip poor Will	12.246

Besides these, we have,

The Royston crow. Corvus cornix.
Crane. Ardea Canadensis.
House swallow. Hirundo rustica.
Ground swallow. Hirundo riparia.
Greatest gray eagle.
Smaller turkey buzzard, with a feathered head.
Greatest owl, or night hawk.
Wet hawk, which feeds flying.
Raven.
Water Pelican of the Mississippi, whose pouch holds a peck.
Swan.
Loon.
Cormorant.
Duck and mallard.
Widgeon.
Sheldrach, or Canvas back.
The Black head.
Ballcoot.
Sprigtail.
Didapper, or dopchick
Spoon-billed duck.
Water-witch.
Water-pheasant.
Mow-bird.
Blue Peter.
Water Wagtail.
Yellow-legged Snipe.
Squatting Snipe.
Small Plover.
Whistling Plover.
Woodcock.
Red bird, with black head, wings and tail.

And doubtless many others which have not yet been described and classed.

To this catalogue of our indigenous animals, I will add a short account of an anomaly of nature, taking place sometimes in the race of negroes brought from Africa, who, though black themselves, have, in rare instances, white children, called Albinos. I have known four of these myself, and have faithful accounts of three others. The circumstances in which all the individuals agree are these. They are of a pallid cadaverous white, untinged with red, without any colored spots or seams; their hair of the same kind of white, short, coarse, and curled as is that of the negro; all of them well formed, strong, healthy, perfect in their senses, except that of sight, and born of parents who had no mixture of white blood. Three of these Albinos were sisters, having two other full sisters, who were black. The youngest of the three was killed by lightning, at twelve years of age. The eldest died at about 27 years of age, in child-bed, with her second child. The middle one is now alive, in health, and has issue, as the eldest had, by a black man, which issue was black. They are uncommonly shrewd, quick in their apprehensions and in reply. Their eyes are in a perpetual tremulous vibration, very weak, and much affected by the sun; but they see much better in the night than we do. They are of the property of Colonel Skipwith, of Cumberland. The fourth is a negro

woman, whose parents came from Guinea, and had three other children, who were of their own color. She is freckled, her eye-sight so weak that she is obliged to wear a bonnet in the summer; but it is better in the night than day. She had an Albino child by a black man. It died at the age of a few weeks. These were the property of Col. Carter, of Albemarle. A sixth instance is a women the property of a Mr. Butler, near Petersburg. She is stout and robust, has issue a daughter, jet black, by a black man. I am not informed as to her eye-sight. The seventh instance is of a male belonging to a Mr. Lee of Cumberland. His eyes are tremulous and weak. He is tall of stature, and now advanced in years. He is the only male of the Albinos which have come within my information. Whatever be the cause of the disease in the skin, or in its coloring matter, which produces this change, it seems more incident to the female than male sex. To these I may add the mention of a negro man within my own knowledge, born black, and of black parents; on whose chin, when a boy, a white spot appeared. This continued to increase till he became a man, by which time it had extended over his chin, lips, one cheek, the under jaw, and neck on that side. It is of the Albino white, without any mixture of red, and has for several years been stationary. He is robust and healthy, and the change of color was not accompanied with any sensible disease, either general or topical.

Of our fish and insects there has been nothing like a full description or collection. More of them are described in Catesby than in any other work. Many also are to be found in Sir Hans Sloane's Jamaica, as being common to that and this country. The honey-bee is not a native of our continent. Marcgrave, indeed, mentions a species of honey-bee in Brazil. But this has no sting, and is therefore different from the one we have, which resembles perfectly that of Europe. The Indians concur with us in the tradition that it was brought from Europe; but when, and by whom, we know not. The bees have generally extended themselves into the country, a little in advance of the white settlers. The Indians, therefore, call them the white man's fly, and consider their approach as indicating the approach

of the settlements of the whites. A question here occurs, How far northwardly have these insects been found? That they are unknown in Lapland, I infer from Scheffer's information, that the Laplanders eat the pine bark, prepared in a certain way, instead of those things sweetened with sugar. "Hoc comedunt pro rebus saccharo conditis." Scheff. Lapp. c. 18. Certainly if they had honey, it would be a better substitute for sugar than any preparation of the pine bark. Kalm tells us* the honey-bee cannot live through the winter in Canada. They furnish then an additional fact first observed by the Count de Buffon, and which has thrown such a blaze of light on the field of natural history, that no animals are found in both continents, but those which are able to bear the cold of those regions where they probably join.

QUERY VII.

A notice of all that can increase the progress of Human Knowledge?

Under the latitude of this query, I will presume it not improper nor unacceptable to furnish some data for estimating the climate of Virginia. Journals of observations on the quantity of rain, and degree of heat, being lengthy, confused, and too minute to produce general and distinct ideas, I have taken five years' observations, to wit, from 1772 to 1777, made in Williamsburg and its neighborhood, have reduced them to an average for every month in the year, and stated those averages in the following table, adding an analytical view of the winds during the same period.

The rains of every month, (as of January, for instance,) through the whole period of years, were added separately, and an average drawn from them. The coolest and warmest point of the same day in each year of the period, were added separately, and an average of the greatest cold and greatest heat of

* I. 126.

that day was formed. From the averages of every day in the month, a general average was formed. The point from which the wind blew, was observed two or three times in every day. These observations, in the month of January, for instance, through the whole period, amounted to three hundred and thirty-seven. At seventy-three of these, the wind was from the north; forty-seven from the north-east, &c. So that it will be easy to see in what proportion each wind usually prevails in each month; or, taking the whole year, the total of observations through the whole period having been three thousand six hundred and ninety-eight, it will be observed that six hundred and eleven of them were from the north, five hundred and fifty-eight from the north-east, &c.

	Fall of rain, etc., in inches.	Least and greatest daily heat, by Fahrenheit's thermometer.	WINDS.								
			N.	N.E.	E.	S.E.	S.	S.W.	W.	N.W.	Total.
Jan.	3.192	38½ to 44	73	47	32	10	11	78	40	46	337
Feb.	2.049	41 .. 47½	61	52	24	11	4	63	30	31	276
March..	3.95	48 .. 54½	49	44	38	28	14	83	29	33	318
April ..	3.68	56 .. 62½	35	44	54	19	9	58	18	20	257
May	2.871	63 .. 70½	27	36	62	23	7	74	32	20	281
June...	3.751	71½ .. 78½	22	34	43	24	13	81	25	25	267
July	4.497	77 .. 82½	41	44	75	15	7	95	32	19	328
August.	9.153	76½ .. 81	43	52	40	30	9	103	27	30	334
Sept....	4.761	69½ .. 74½	70	60	51	18	10	81	18	37	345
Oct.	3 633	61½ .. 66½	52	77	64	15	6	56	23	34	327
Nov	2.617	47½ .. 53½	74	21	20	14	9	63	35	58	294
Dec....	2.877	43 .. 48½	64	37	18	16	10	91	42	56	334
Total.	47.038	8 A.M. to 4 P.M.	611	548	521	223	109	926	351	409	3,698

Though by this table it appears we have on an average forty-seven inches of rain annually, which is considerably more than usually falls in Europe, yet from the information I have collected, I suppose we have a much greater proportion of sunshine here than there. Perhaps it will be found, there are twice as many cloudy days in the middle parts of Europe, as in the United States of America. I mention the middle parts of Europe, because my information does not extend to its northern or southern parts.

In an extensive country, it will of course be expected that the climate is not the same in all its parts. It is remarkable, that proceeding on the same parallel of latitude westwardly, the

climate becomes colder in like manner as when you proceed northwardly. This continues to be the case till you attain the summit of the Alleghany, which is the highest land between the ocean and the Mississippi. From thence, descending in the same latitude to the Mississippi, the change reverses; and, if we may believe travellers, it becomes warmer there than it is in the same latitude on the sea-side. Their testimony is strengthened by the vegetables and animals which subsist and multiply there naturally, and do not on the sea-coast. Thus Catalpas grow spontaneously on the Mississippi, as far as the latitude of 37°, and reeds as far as 38°. Parroquets even winter on the Scioto, in the 39th degree of latitude. In the summer of 1779, when the thermometer was at 90° at Monticello, and 96° at Williamsburg, it was 110° at Kaskaskia. Perhaps the mountain, which overhangs this village on the north side, may, by its reflection, have contributed somewhat to produce this heat. The difference of temperature of the air at the sea-coast, or on the Chesapeake bay, and at the Alleghany, has not been ascertained; but contemporary observations, made at Williamsburg, or in its neighborhood, and at Monticello, which is on the most eastern ridge of the mountains, called the South-West, where they are intersected by the Rivanna, have furnished a ratio by which that difference may in some degree be conjectured. These observations make the difference between Williamsburg and the nearest mountains, at the position before mentioned, to be on an average $6\frac{1}{3}°$ of Fahrenheit's thermometer. Some allowance, however, is to be made for the difference of latitude between these two places, the latter being 38° 8′ 17″, which is 52′ 22″ north of the former. By contemporary observations of between five and six weeks, the averaged and almost unvaried difference of the height of mercury in the barometer, at those two places, was .784 of an inch, the atmosphere at Monticello being so much the lightest, that is to say, about one-thirty-seventh of its whole weight. It should be observed, however, that the hill of Monticello is of five hundred feet perpendicular height above the river which washes its base. This position being nearly central between our northern and southern boundaries, and between the

bay and Alleghany, may be considered as furnishing the best average of the temperature of our climate. Williamsburg is much too near the south-eastern corner to give a fair idea of our general temperature.

But a more remarkable difference is in the winds which prevail in the different parts of the country. The following table exhibits a comparative view of the winds prevailing at Williamsburg, and at Monticello. It is formed by reducing nine months' observations at Monticello to four principal points, to wit, the north-east, south-east, south-west, and north-west; these points being perpendicular to, or parallel with our coast, mountains, and rivers; and by reducing in like manner, an equal number of observations, to wit, four hundred and twenty-one from the preceding table of winds at Williamsburg, taking them proportionably from every point:

	N.E.	S.E.	S.W.	N.W.	Total.
Williamsburg	127	61	132	101	421
Monticello	32	91	126	172	421

By this it may be seen that the south-west wind prevails equally at both places; that the north-east is, next to this, the principal wind towards the sea-coast, and the north-west is the predominent wind at the mountains. The difference between these two winds to sensation, and in fact, is very great. The north-east is loaded with vapor, insomuch, that the salt-makers have found that their crystals would not shoot while that blows; it brings a distressing chill, and is heavy and oppressive to the spirits. The north-west is dry, cooling, elastic, and animating. The eastern and south-eastern breezes come on generally in the afternoon. They have advanced into the country very sensibly within the memory of people now living. They formerly did not penetrate far above Williamsburg. They are now frequent at Richmond, and every now and then reach the mountains. They deposit most of their moisture, however, before they get that far. As the lands become more cleared, it is probable they will extend still further westward.

Going out into the open air, in the temperate, and warm

months of the year, we often meet with bodies of warm air, which passing by us in two or three seconds, do not afford time to the most sensible thermometer to seize their temperature. Judging from my feelings only, I think they approach the ordinary heat of the human body. Some of them, perhaps, go a little beyond it. They are of about twenty to thirty feet diameter horizontally. Of their height we have no experience, but probably they are globular volumes wafted or rolled along with the wind. But whence taken, where found, or how generated? They are not to be ascribed to volcanos, because we have none. They do not happen in the winter when the farmers kindle large fires in clearing up their grounds. They are not confined to the spring season, when we have fires which traverse whole counties, consuming the leaves which have fallen from the trees. And they are too frequent and general to be ascribed to accidental fires. I am persuaded their cause must be sought for in the atmosphere itself, to aid us in which I know but of these constant circumstances: a dry air; a temperature as warm, at least, as that of the spring or autumn; and a moderate current of wind. They are most frequent about sun-set; rare in the middle parts of the day; and I do not recollect having ever met with them in the morning.

The variation in the weight of our atmosphere, as indicated by the barometer, is not equal to two inches of mercury. During twelve months' observation at Williamsburg, the extremes 29 and 30.86 inches, the difference being 1.86 of an inch; and in nine months, during which the height of the mercury was noted at Monticello, the extremes were 28.48 and 29.69 inches, the variation being 1.21 of an inch. A gentleman, who has observed his barometer many years, assures me it has never varied two inches. Contemporary observations made at Monticello and Williamsburg, proved the variations in the weight of air to be simultaneous and corresponding in these two places.

Our changes from heat to cold, and cold to heat, are very sudden and great. The mercury in Fahrenheit's thermometer has been known to descend from 92° to 47° in thirteen hours.

It was taken for granted, that the preceding table of average

heat will not give a false idea on this subject, as it proposes to state only the ordinary heat and cold of each month, and not those which are extraordinary. At Williamsburg, in August 1766, the mercury in Fahrenheit's thermometer was at 98°, corresponding with 29⅓ of Reaumur. At the same place in January 1780, it was 6°, corresponding with 11½ below zero of Reaumur. I believe* these may be considered to be nearly the extremes of heat and cold in that part of the country. The latter may most certainly, as that time York river, at Yorktown, was frozen over, so that people walked across it; a circumstance which proves it to have been colder than the winter of 1740, 1741, usually called the cold winter, when York river did not freeze over at that place. In the same season of 1780, Chesapeake bay was solid, from its head to the mouth of Potomac. At Annapolis, where it is 5¼ miles over between the nearest points of land, the ice was from five to seven inches thick quite across, so that loaded carriages went over on it. Those, our extremes of heat and cold, of 6° and 98°, were indeed very distressing to us, and were thought to put the extent of the human constitution to considerable trial. Yet a Siberian would have considered them as scarcely a sensible variation. At Jenniseitz in that country, in latitude 58° 27′, we are told that the cold in 1735 sunk the mercury by Fahrenheit's scale to 126° below nothing; and the inhabitants of the same country use stove rooms two or three times a week, in which they stay two hours at a time, the atmosphere of which raises the mercury to 135° above nothing. Late experiments show that the human body will exist in rooms heated to 140° of Reaumur, equal to 347° of Fahrenheit's, and 135° above boiling water. The hottest point of the twenty-four hours is about four o'clock, P. M., and the dawn of day the coldest.

The access of frost in autumn, and its recess the spring, do not seem to depend merely on the degree of cold; much less on

* At Paris, in 1753, the mercury in Reaumur's thermometer was at 30¼ above zero, and in 1776, it was at 16 below zero. The extremities of heat and cold therefore at Paris, are greater than at Williamsburg, which is in the hottest part of Virginia.

the air's being at the freezing point. White frosts are frequent when the thermometer is at 47°, have killed young plants of Indian corn at 48°, and have been known at 54°. Black frost, and even ice, have been produced at 38½°, which is 6½ degrees above the freezing point. That other circumstances must be combined with this cold to produce frost, is evident from this also, on the higher parts of mountains, where it is absolutely colder than in the plains on which they stand, frosts do not appear so early by a considerable space of time in autumn, and go off sooner in the spring, than in the plains. I have known frosts so severe as to kill the hickory trees round about Monticello, and yet not injure the tender fruit blossoms then in bloom on the top and higher parts of the mountain; and in the course of forty years, during which it had been settled, there have been but two instances of a general loss of fruit on it; while in the circumjacent country, the fruit has escaped but twice in the last seven years. The plants of tobacco, which grow from the roots of those which have been cut off in the summer, are frequently green here at Christmas. This privilege against the frost is undoubtedly combined with the want of dew on the mountains. That the dew is very rare on their higher parts, I may say with certainty, from twelve years' observations, having scarcely ever, during that time, seen an unequivocal proof of its existence on them at all during summer. Severe frosts in the depth of winter prove that the region of dews extends higher in that season than the tops of the mountains; but certainly, in the summer season, the vapors, by the time they attain that height, are so attenuated as not to subside and form a dew when the sun retires.

The weavil has not yet ascended the high mountains.

A more satisfactory estimate of our climate to some, may perhaps be formed, by noting the plants which grow here, subject, however, to be killed by our severest colds. These are the fig, pomegranate, artichoke, and European walnut. In mild winters, lettuce and endive require no shelter; but, generally, they need a slight covering. I do not know that the want of long moss, reed, myrtle, swamp laurel, holly, and cypress, in the upper country proceeds from a greater degree of cold, nor that they

were ever killed with any degree of cold, nor that they were ever killed with any degree of cold in the lower country. The aloe lived in Williamsburg, in the open air, through the severe winter of 1779, 1780.

A change in our climate, however, is taking place very sensibly. Both heats and colds are become much more moderate within the memory even of the middle-aged. Snows are less frequent and less deep. They do not often lie, below the mountains, more than one, two, or three days, and very rarely a week. They are remembered to have been formerly frequent, deep, and of long continuance. The elderly inform me, the earth used to be covered with snow about three months in every year. The rivers, which then seldom failed to freeze over in the course of the winter, scarcely ever do so now. This change has produced an unfortunate fluctuation between heat and cold, in the spring of the year, which is very fatal to fruits. From the year 1741 to 1769, an interval of twenty-eight years, there was no instance of fruit killed by the frost in the neighborhood of Monticello. An intense cold, produced by constant snows, kept the buds locked up till the sun could obtain, in the spring of the year, so fixed an ascendency as to dissolve those snows, and protect the buds, during their development, from every danger of returning cold. The accumulated snows of the winter remaining to be dissolved all together in the spring, produced those overflowings of our rivers, so frequent then, and so rare now.

Having had occasion to mention the particular situation of Monticello for other purposes, I will just take notice that its elevation affords an opportunity of seeing a phenomenon which is rare at land, though frequent at sea. The seamen call it *looming*. Philosophy is as yet in the rear of the seamen, for so far from having accounted for it, she has not given it a name. Its principal effect is to make distant objects appear larger, in opposition to the general law of vision, by which they are diminished. I knew an instance, at Yorktown, from whence the water prospect eastwardly is without termination, wherein a canoe with three men, at a great distance was taken for a ship with its three masts. I am little acquainted with the phenom-

enon as it shows itself at sea; but at Monticello it is familiar. There is a solitary mountain about forty miles off in the South, whose natural shape, as presented to view there, is a regular cone; but by the effect of looming, it sometimes subsides almost totally in the horizon; sometimes it rises more acute and more elevated; sometimes it is hemispherical; and sometimes its sides are perpendicular, its top flat, and as broad as its base. In short, it assumes at times the most whimsical shapes, and all these perhaps successively in the same morning. The blue ridge of mountains comes into view, in the north-east, at about one hundred miles distance, and approaching in a direct line, passes by within twenty miles, and goes off to the south-west. This phenomenon begins to show itself on these mountains, at about fifty miles distance, and continues beyond that as far as they are seen. I remark no particular state, either in the weight, moisture, or heat of the atmosphere, necessary to produce this. The only constant circumstances are its appearance in the morning only, and on objects at least forty or fifty miles distant. In this latter circumstance, if not in both, it differs from the looming on the water. Refraction will not account for the metamorphosis. That only changes the proportions of length and breadth, base and altitude, preserving the general outlines. Thus it may make a circle appear elliptical, raise or depress a cone, but by none of its laws, as yet developed, will it make a circle appear a square, or a cone a sphere.

QUERY VIII.

The number of its inhabitants?

The following table shows the number of persons imported for the establishment of our colony in its infant state, and the census of inhabitants at different periods, extracted from our historians and public records, as particularly as I have had opportunities and leisure to examine them. Successive lines in the

Years.	Settlers Imported.	Census of Inhabitants	Census of Tythes.
1607	100	.....	.....
..	.....	40	.....
..	120	.....	.....
1608	.....	130	.....
..	70	.....	.....
1609	.....	490	.....
..	16	.....	.....
..	.....	60	.....
1610	150	.....	.....
..	.....	200	.....
1611	3 ship loads.	.....	.....
..	300	.....	.....
1612	80	.....	.....
1617	.....	400	.....
1618	200	.....	.....
..	40	.....	.....
..	.....	600	.....
1619	1,216	.....	.....
1621	1,300	.....	.....
1622	.....	3,800	.....
..	.....	2,500	.....
1628	.....	3,000	.....
1632	.....	.....	2,000
1644	.....	.....	4,822
1645	.....	.....	5,000
1652	.....	.....	7,000
1654	.....	.....	7,209
1700	.....	.....	22,000
1748	.....	.....	82,100
1759	.....	.....	105,000
1772	.....	.....	153,000
1782	.....	567,614	.....

same year show successive periods of time in that year. I have stated the census in two different columns, the whole inhabitants having been sometimes numbered, and sometimes the *tythes* only. This term, with us, includes the free males above sixteen years of age, and slaves above that age of both sexes. A further examination of our records would render this history of our population much more satisfactory and perfect, by furnishing a greater number of intermediate terms. These, however, which are here stated will enable us to calculate, with a considerable degree of precision, the rate at which we have increased. During the infancy of the colony, while numbers were small, wars, importations, and other accidental circumstances render the progression fluctuating and irregular. By the year 1654, however, it becomes tolerably uniform, importations having in a great measure ceased from the dissolution of the company, and the inhabitants become too numerous to be sensibly affected by Indian wars. Beginning at that period, therefore, we find that from thence to the year 1772, our tythes had increased from 7,209 to 153,000. The whole term being of one hundred and eighteen

years, yields a duplication once in every twenty-seven and a quarter years. The intermediate enumerations taken in 1700, 1748, and 1759, furnish proofs of the uniformity of this progression. Should this rate of increase continue, we shall have between six and seven millions of inhabitants within ninety-five years. If we suppose our country to be bounded, at some future day, by the meridian of the mouth of the Great Kanhaway, (within which it has been before conjectured, are 64,461 square miles) there will then be one hundred inhabitants for every square mile, which is nearly the state of population in the British Islands.

Here I will beg leave to propose a doubt. The present desire of America is to produce rapid population by as great importations of foreigners as possible. But is this founded in good policy? The advantage proposed is the multiplication of numbers. Now let us suppose (for example only) that, in this state, we could double our numbers in one year by the importation of foreigners; and this is a greater accession than the most sanguine advocate for emigration has a right to expect. Then I say, beginning with a double stock, we shall attain any given degree of population only twenty-seven years, and three months sooner than if we proceed on our single stock. If we propose four millions and a half as a competent population for this State, we should be fifty-four and a half years attaining it, could we at once double our numbers; and eighty-one and three quarter years, if we rely on natural propagation, as may be seen by the following tablet:

	Proceeding on our present stock.	Proceeding on a double stock.
1781	567,614	1,135,228
1808¼	1,135,228	2,270,456
1835½	2,270,456	4,540,912
1862¾	4,540,912	

In the first column are stated periods of twenty-seven and a quarter years; in the second are our numbers at each period, as they will be if we proceed on our actual stock; and in the third are what they would be, at the same periods, were we to set out

from the double of our present stock. I have taken the term of four million and a half of inhabitants for example's sake only. Yet I am persuaded it is a greater number than the country spoken of, considering how much inarable land it contains, can clothe and feed without a material change in the quality of their diet. But are there no inconveniences to be thrown into the scale against the advantage expected from a multiplication of numbers by the importation of foreigners? It is for the happiness of those united in society to harmonize as much as possible in matters which they must of necessity transact together. Civil government being the sole object of forming societies, its administration must be conducted by common consent. Every species of government has its specific principles. Ours perhaps are more peculiar than those of any other in the universe. It is a composition of the freest principles of the English constitution, with others derived from natural right and natural reason. To these nothing can be more opposed than the maxims of absolute monarchies. Yet from such we are to expect the greatest number of emigrants. They will bring with them the principles of the governments they leave, imbibed in their early youth; or, if able to throw them off, it will be in exchange for an unbounded licentiousness, passing, as is usual, from one extreme to another. It would be a miracle were they to stop precisely at the point of temperate liberty. These principles, with their language, they will transmit to their children. In proportion to their numbers, they will share with us the legislation. They will infuse into it their spirit, warp and bias its directions, and render it a heterogenious, incoherent, distracted mass. I may appeal to experience, during the present contest, for a verification of these conjectures. But, if they be not certain in event, are they not possible, are they not probable? Is it not safer to wait with patience twenty-seven years and three months longer, for the attainment of any degree of population desired or expected? May not our government be more homogeneous, more peaceable, more durable? Suppose twenty millions of republican Americans thrown all of a sudden into France, what would be the condition of that kingdom? If it would be more turbulent, less happy, less strong, we

may believe that the addition of half a million of foreigners to our present numbers would produce a similar effect here. If they come of themselves they are entitled to all the rights of citizenship; but I doubt the expediency of inviting them by extraordinary encouragements. I mean not that these doubts should be extended to the importation of useful artificers. The policy of that measure depends on very different considerations. Spare no expense in obtaining them. They will after a while go to the plough and the hoe; but, in the mean time, they will teach us something we do not know. It is not so in agriculture. The indifferent state of that among us does not proceed from a want of knowledge merely; it is from our having such quantities of land to waste as we please. In Europe the object is to make the most of their land, labor being abundant; here it is to make the most of our labor, land being abundant.

It will be proper to explain how the numbers for the year 1782 have been obtained; as it was not from a perfect census of the inhabitants. It will at the same time develope the proportion between the free inhabitants and slaves. The following return of taxable articles for that year was given in.

53,289 free males above twenty-one years of age.
211,698 slaves of all ages and sexes.
23,766 not distinguished in the returns, but said to be tytheable slaves.
195,439 horses.
609,734 cattle.
5,126 wheels of riding-carriages.
191 taverns.

There were no returns from the eight counties of Lincoln, Jefferson, Fayette, Monongahelia, Yohogania, Ohio, Northampton, and York. To find the number of slaves which should have been returned instead of the 23,766 tytheables, we must mention that some observations on a former census had given reason to believe that the numbers above and below sixteen years of age were equal. The double of this number, therefore, to wit, 47,532 must be added to 211,698, which will give us 259,230 slaves of all ages and sexes. To find the number of

free inhabitants we must repeat the observation that those above and below sixteen are nearly equal. But as the number 53,289 omits the males below sixteen and twenty-one we must supply them from conjecture. On a former experiment it had appeared that about one-third of our militia, that is, of the males between sixteen and fifty, were unmarried. Knowing how early marriage takes place here, we shall not be far wrong in supposing that the unmarried part of our militia are those between sixteen and twenty-one. If there be young men who do not marry till after twenty-one, there are many who marry before that age. But as men above fifty were not included in the militia, we will suppose the unmarried, or those between sixteen and twenty-one, to be one-fourth of the whole number above sixteen, then we have the following calculation:

53,289 free males above twenty-one years of age.
17,763 free males between sixteen and twenty-one.
17,052 free males under sixteen.
142,104 free males of all ages.
284,208 free inhabitants of all ages.
259,230 slaves of all ages.
543,438 inhabitants, exclusive of the eight counties from which were no returns. In these eight counties in the years 1779 and 1780, were 3,161 militia. Say then,
3,161 free males above the age of sixteen.
3,161 free males under sixteen.
6,322 free females.
12,644 free inhabitants in these eight counties. To find the number of slaves, say, as 284,208 to 259,230, so is 12,644 to 11,532. Adding the third of these numbers to the first, and the fourth to the second, we have,
296,852 free inhabitants.
270,762 slaves.
567,614 inhabitants of every age, sex and condition. But 296,852, the number of free inhabitants, are to 270,762, the number of slaves, nearly as 11 to 10. Under the mild treatment our slaves experience, and their wholesome, though coarse food, this blot in our country increases as fast, or faster than the

whites. During the regal government we had at one time obtained a law which imposed such a duty on the importation of slaves as amounted nearly to a prohibition, when one inconsiderate assembly, placed under a peculiarity of circumstance, repealed the law. This repeal met a joyful sanction from the then reigning sovereign, and no devices, no expedients, which could ever be attempted by subsequent assemblies, and they seldom met without attempting them, could succeed in getting the royal assent to a renewal of the duty. In the very first session held under the republican government, the assembly passed a law for the perpetual prohibition of the importation of slaves. This will in some measure stop the increase of this great political and moral evil, while the minds of our citizens may be ripening for a complete emancipation of human nature.

QUERY IX.

The number and condition of the Militia and Regular Troops, and their Pay?

The following is a state of the militia, taken from returns of 1780 and 1781, except in those counties marked with an asterisk, the returns from which are somewhat older.

Every able-bodied freeman, between the ages of sixteen and fifty, is enrolled in the militia. Those of every county are formed into companies, and these again into one or more battalions, according to the numbers in the county. They are commanded by colonels, and other subordinate officers, as in the regular service. In every county is a county-lieutenant, who commands the whole militia of his county, but ranks only as a colonel in the field. We have no general officers always existing. These are appointed occasionally, when an invasion or insurrection happens, and their commission determines with the occasion. The governor is head of the military, as well as civil power. The law requires every militia-man to provide himself

Situation.	Counties.	Militia.
Between the Blue Ridge and Tide Waters. 18,828.		
Westward of the Alleghaney 4,458.	Lincoln	600
	Jefferson	300
	Fayette	156
	Ohio	..
	Monongalia	*1,000
	Washington	*829
	Montgomery	1,071
	Greenbriar	502
Between the Alleghany and Blue Ridge. 7,673.	Hampsh re	930
	Berkeley	*1,100
	Freder ck	1,143
	Shenando	*925
	Rockingham	875
	Augusta	1,375
	Rockbridge	*625
	Boutetourt	*700
	Loudoun	1,746
	Faquier	1,078
	Culpepper	1,513
	Spotsylvania.	480
	Orange	*600
	Louisa	603
	Goochland	*550
	Fluvanna	*296
	Albemarle	873
	Amherst	896
	Buckingham	*625
	Bedford	1,300
	Henry	1,004
	Pittsylvania	*725
	Halifax	*1,139
	Charlotte	612
	Prince Edward	589
	Cumberland	408
	Powhatan	330
	Amelia	*1,125
	Lunenburg	677
	Mecklenburg	1,100
	Brunswick	559

Situation.	Counties.	Militia.
On the Tide Waters, and in that Parallel. 19,012.		
Between James River and Carolina. 6,959.	Greensville	500
	Dinwiddie	*750
	Chesterfield	665
	Prince George	328
	Surrey	380
	Sussex	*700
	Southampton	874
	Isle of White	*600
	Nansemond	*644
	Norfolk	*880
	Prince Anne	*594
Between James & York rivers. 3,009.	Henrico	619
	Hanover	706
	New Kent	*418
	Charles City	286
	James City	235
	Williamsburgh	129
	York	*244
Bet. York & Rappahannock. 3,269.	Warwick	*100
	Elizabeth City	182
	Caroline	805
	King William	436
	King and Queen	500
	Essex	468
	Middlesex	*210
	Gloucester	850
Betw'n Rappahannock and Powtomac. 4,137.	Fairfax	652
	Prince William	614
	Stafford	*500
	King George	483
	Richmond	412
	Westmoreland	544
	Northumberland	630
	Lancaster	332
East'n shore. 1,638.	Accomac	*1,208
	Northampton	*430
Whole Militia of the State		49,971

with the arms usual in the regular service. But this injunction was always indifferently complied with, and the arms they had, have been so frequently called for to arm the regulars, that in the lower parts of the country they are entirely disarmed. In the middle country a fourth or fifth part of them may have such firelocks as they had provided to destroy the noxious animals which infest their farms; and on the western side of the Blue ridge they are generally armed with rifles. The pay of our militia, as well as of our regulars, is that of the continental regulars. The condition of our regulars, of whom we have none but continentals, and part of a battalion of state troops, is so constantly on the change, that a state of it at this day would not be its state a month hence. It is much the same with the condition of the other continental troops, which is well enough known.

QUERY X.

The Marine?

Before the present invasion of this State by the British, under the command of General Phillips, we had three vessels of sixteen guns, one of fourteen, five small gallies, and two or three armed boats. They were generally so badly manned as seldom to be in a condition for service. Since the perfect possession of our rivers assumed by the enemy, I believe we are left with a single armed boat only.

QUERY XI.

A description of the Indians established in that State?

When the first effectual settlement of our colony was made, which was in 1607, the country from the sea-coast to the mountains, and from the Potomac to the most southern waters of James' river, was occupied by upwards of forty different tribes of Indians. Of these the *Powhatans*, the *Mannahoacs*, and *Monacans*, were the most powerful. Those between the seacoast and falls of the rivers, were in amity with one another, and attached to the *Powhatans* as their link of union. Those between the falls of the rivers and the mountains, were divided into two confederacies; the tribes inhabiting the head waters of Potomac and Rappahannock, being attached to the *Mannahoacs;* and those on the upper parts of James' river to the *Monacans.* But the *Monacans* and their friends were in amity with the *Mannahoacs* and their friends, and waged joint and perpetual war against the *Powhatans.* We are told that the *Powhatans*, *Mannahoacs*, and *Monacans*, spoke languages so radically different, that interpreters were necessary when they transacted business. Hence we may conjecture, that this was not the case between all the tribes, and, probably, that each spoke the language of the nation

NORTH.

WEST.

MANNAHOACS.

	Tribes.	Country.	Cf. Towns	Warr's. 1669.
Between Patowmac and Rappahannoc.	Whonkenties.	Fauquier.		
	Tegninaties.	Culpepper.		
	Ontponies.	Orange.		
	Tauxitanians.	Fauquier.		
	Hassinungaes.	Culpepper.		
Bet. Rappahannoc & York.	Stegarakies.	Orange.		
	Shackakonies.	Spotsylvania.		
	Manahoacs.	Stafford.		
		Spotsylvania.		

MONACANS.

	Tribes.	Country.	Cf. Towns	Warr's. 1669.
Between York and James.	Monacans.	James river, above the falls.	Fork of James river.	30
	Monasiccapanoes.	Louisa.		
		Fluvanna.		
Between James & Carolina.	Monahassanoes.	Bedford.		
		Buckingham.		
	Massinacacs.	Cumberland.		
	Mohemenchoes.	Powhatan.		
Eastern shore.				

POWHATANS.

Tribes.	Country.	Chief Towns.	Warriors. 1607.	Warriors. 1669.
Tauxenents.	Fairfax.	About Gen. Washington's.	40	
Patówomekes.	Stafford.	Pawtomac cr.	200	
	King George.			
Cuttatawomans.	King George.	About Lamb creek.	20	60
Pissasecs.	King George.	Above Leeds Town.	..	
	Richmond.			
Onaumanients.	Westmoreland.	Nomony river.	100	
Rappahánocs.	Richmond co.	Rappahanoc creek.	100	30
Moáughtacunds.	Lancaster.	Moratico river.	80	40
	Richmond.			
Secacaconies.	Northumberland.	Coan river.	30	
Wighcocòmicoes.	Northumberland.	Wicocomico river.	130	70
Cuttatawomans.	Lancaster.	Corotoman.	30	
Nantaughtacunds.	Essex. Caroline.	Port Tobacco creek.	150	60
Mättapoments.	Mattapony river.	.....	30	20
Pamunkies.	King William.	Romuncock.	300	50
Wérowocòmicos.	Gloucester.	About Rosewell. [by.	40	
Payánkatonks.	Piankatank river.	Turk's Ferry. Grimes-	55	
Youghtmunds.	Pamunkey river.	.....	60	
Chickahòminies.	Chickahominy r.	Orapaks.	250	60
Powhatans.	Henrico.	Powhatan. Mayo's.	40	10
Arrowhátocs.	Henrico.	Arrohatocs.	30	
Wéanocs.	Charles city.	Weynoke.	100	15
Paspahéghes.	Charles city.	Sandy-Point.	40	
	James city.			
Chiskiacs.	York.	Chiskiac.	45	15
Kecoughtáns.	Elizabeth city.	Roscows.	20	
Appamáttocs.	Chesterfield.	Bermuda Hundred.	60	50
Quiocohánoes.	Surry.	About Upp. Chipoak.	25	3 Pohics
Wárrasqueaks.	Isle of Wight.	Warrasqueoc.	..	
Nasamónds.	Nansamond.	A't mouth W. branch	200	45
Chésapeaks.	Princess Anne.	About Lynhaven riv.	100	
Accohanocs.	Accom.	Accohanoc river.	40	
Accomácks.	Northampton.	About Cheriton's.	80	
	Northampton			

		1699.
By the name of Matchotics, U. Matchodic, Nanzaticos, Nanzatico, Appomatox, Matox.		
By the name of Totuskeys.		
	Nottoways.	..
	Meherrics.	90
	Tuteloes.	50

EAST.

SOUTH.

to which it was attached; which we know to have been the case in many particular instances. Very possibly there may have been anciently three different stocks, each of which multiplying in a long course of time, had separated into so many little societies. This practice results from the circumstance of their having never submitted themselves to any laws, any coercive power, any shadow of government. Their only controls are their manners, and that moral sense of right and wrong, which, like the sense of tasting and feeling in every man, makes a part of his nature. An offence against these is punished by contempt, by exclusion from society, or, where the case is serious, as that of murder, by the individuals whom it concerns. Imperfect as this species of coercion may seem, crimes are very rare among them, insomuch that were it made a question, whether no law, as among the savage Americans, or too much law, as among the civilized Europeans, submits man to the greatest evil, one who has seen both conditions of existence would pronounce it to be the last; and that the sheep are happier of themselves, than under care of the wolves. It will be said, that great societies cannot exist without government. The savages, therefore, break them into small ones.

The territories of the *Powhatan* confederacy, south of the Potomac, comprehended about eight thousand square miles, thirty tribes, and two thousand four hundred warriors. Captain Smith tells us, that within sixty miles of Jamestown were five thousand people, of whom one thousand five hundred were warriors. From this we find the proportion of their warriors to their whole inhabitants, was as three to ten. The *Powhatan* confederacy, then, would consist of about eight thousand inhabitants, which was one for every square mile; being about the twentieth part of our present population in the same territory, and the hundredth of that of the British islands.

Besides these were the *Nottoways*, living on Nottoway river, the *Meherrins* and *Tuteloes* on Meherrin river, who were connected with the Indians of Carolina, probably with the Chowanocs.

The preceding table contains a state of these several tribes,

according to their confederacies and geographical situation, with their numbers when we first became acquainted with them, where these numbers are known. The numbers of some of them are again stated as they were in the year 1669, when an attempt was made by assembly to enumerate them. Probably the enumeration is imperfect, and in some measure conjectural, and that a farther search into the records would furnish many more particulars. What would be the melancholy sequel of their history, may, however, be argued from the census of 1669; by which we discover that the tribes therein enumerated were, in the space of sixty-two years, reduced to about one-third of their former numbers. Spirituous liquors, the small-pox, war, and an abridgement of territory to a people who lived principally on the spontaneous productions of nature, had committed terrible havoc among them, which generation, under the obstacles opposed to it among them, was not likely to make good. That the lands of this country were taken from them by conquest, is not so general a truth as is supposed. I find in our historians and records, repeated proofs of purchase, which cover a considerable part of the lower country; and many more would doubtless be found on further search. The upper country, we know, has been acquired altogether acquired by purchases made in the most unexceptionable form.

Westward of all these tribes, beyond the mountains, and extending to the great lakes, were the *Maffawomees*, a most powerful confederacy, who harrassed unremittingly the *Powhatans* and *Manahoacs*. These were probably the ancestors of tribes known at present by the name of the *Six Nations*.

Very little can now be discovered of the subsequent history of these tribes severally. The *Chickahominies* removed about the year 1661, to Mattapony river. Their chief, with one from each of the Pamunkies and Mattaponies, attended the treaty of Albany in 1685. This seems to have been the last chapter in their history. They retained, however, their separate name so late as 1705, and were at length blended with the Pamunkies and Mattaponies, and exist at present only under their names. There remain of the *Mattaponies* three or four men only, and

have more negro than Indian blood in them. They have lost their language, have reduced themselves, by voluntary sales, to about fifty acres of land, which lie on the river of their own name, and have from time to time, been joining the Pamunkies, from whom they are distant but ten miles. The *Pamunkies* are reduced to about ten or twelve men, tolerably pure from mixture with other colors. The older ones among them preserve their language in a small degree, which are the last vestiges on earth, as far as we know, of the Powhatan language. They have about three hundred acres of very fertile land, on Pamunkey river, so encompassed by water that a gate shuts in the whole. Of the *Nottoways*, not a male is left. A few women constitute the remains of that tribe. They are seated on Nottoway river, in Southampton country, on very fertile lands. At a very early period, certain lands were marked out and appropriated to these tribes, and were kept from encroachment by the authority of the laws. They have usually had trustees appointed, whose duty was to watch over their interests, and guard them from insult and injury.

The *Monacans* and their friends, better known latterly by the name of *Tuscaroras*, were probably connected with the Massawomecs, or Five Nations. For though we are* told their languages were so different that the intervention of interpreters was necessary between them, yet do we also† learn that the Erigas, a nation formerly inhabiting on the Ohio, were of the same original stock with the Five Nations, and that they partook also of the Tuscarora language. Their dialects might, by long separation, have become so unlike as to be unintelligible to one another. We know that in 1712, the Five Nations received the Tuscaroras into their confederacy, and made them the Sixth Nation. They received the Meherrins and Tuteloes also into their protection; and it is most probable, that the remains of many other of the tribes, of whom we find no particular account, retired westwardly, in like manner, and were incorporated with one or the other of the western tribes. (5).

I know of no such thing existing as an Indian monument; for

* Smith. † Evans.

I would not honor with that name arrow points, stone hatchets, stone pipes, and half-shapen images. Of labor on the large scale, I think there is no remain as respectable as would be a common ditch for the draining of lands; unless indeed it would be the barrows, of which many are to be found all over this country. These are of different sizes, some of them constructed of earth, and some of loose stones. That they were repositories of the dead, has been obvious to all; but on what particular occasion constructed, was a matter of doubt. Some have thought they covered the bones of those who have fallen in battles fought on the spot of interment. Some ascribed them to the custom, said to prevail among the Indians, of collecting, at certain periods, the bones of all their dead, wheresoever deposited at the time of death. Others again supposed them the general sepulchres for towns, conjectured to have been on or near these grounds; and this opinion was supported by the quality of the lands in which they are found, (those constructed of earth being generally in the softest and most fertile meadow-grounds on river sides,) and by a tradition, said to be handed down from the aboriginal Indians, that, when they settled in a town, the first person who died was placed erect, and earth put about him, so as to cover and support him; that when another died, a narrow passage was dug to the first, the second reclined against him, and the cover of earth replaced, and so on. There being one of these in my neighborhood, I wished to satisfy myself whether any, and which of these opinions were just. For this purpose I determined to open and examine it thoroughly. It was situated on the low grounds of the Rivanna, about two miles above its principal fork, and opposite to some hills, on which had been an Indian town. It was of a spheroidical form, of about forty feet diameter at the base, and had been of about twelve feet altitude, though now reduced by the plough to seven and a half, having been under cultivation about a dozen years. Before this it was covered with trees of twelve inches diameter, and round the base was an excavation of five feet depth and width, from whence the earth had been taken of which the hillock was formed. I first dug superficially in several parts of it, and came to collec-

tions of human bones, at different depths, from six inches to three feet below the surface. These were lying in the utmost confusion, some vertical, some oblique, some horizontal, and directed to every point of the compass, entangled and held together in clusters by the earth. Bones of the most distant parts were found together, as, for instance, the small bones of the foot in the hollow of a scull; many sculls would sometimes be in contact, lying on the face, on the side, on the back, top or bottom, so as, on the whole, to give the idea of bones emptied promiscuously from a bag or a basket, and covered over with earth, without any attention to their order. The bones of which the greatest numbers remained, were sculls, jaw-bones, teeth, the bones of the arms, thighs, legs, feet and hands. A few ribs remained, some vertebræ of the neck and spine, without their processes, and one instance only of the* bone which serves as a base to the vertebral column. The sculls were so tender, that they generally fell to pieces on being touched. The other bones were stronger. There were some teeth which were judged to be smaller than those of an adult; a scull, which on a slight view, appeared to be that of an infant, but it fell to pieces on being taken out, so as to prevent satisfactory examination; a rib, and a fragment of the under-jaw of a person about half grown; another rib of an infant; and a part of the jaw of a child, which had not cut its teeth. This last furnishing the most decisive proof of the burial of children here, I was particular in my attention to it. It was part of the right half of the under-jaw. The processes, by which it was attenuated to the temporal bones, were entire, and the bone itself firm to where it had been broken off, which, as nearly as I could judge, was about the place of the eye-tooth. Its upper edge, wherein would have been the sockets of the teeth, was perfectly smooth. Measuring it with that of an adult, by placing their hinder processes together, its broken end extended to the penultimate grinder of the adult. This bone was white, all the others of a sand color. The bones of infants being soft, they probably decay sooner, which might be the cause so few were found here. I proceeded then to make a perpendicular cut through the

* The os sacrum.

body of the barrow, that I might examine its internal structure. This passed about three feet from its centre, was opened to the former surface of the earth, and was wide enough for a man to walk through and examine its sides. At the bottom, that is, on the level of the circumjacent plain, I found bones; above these a few stones, brought from a cliff a quarter of a mile off, and from the river one-eighth of a mile off; then a large interval of earth, then a stratum of bones, and so on. At one end of the section were four strata of bones plainly distinguishable; at the other, three; the strata in one part not ranging with those in another. The bones nearest the surface were least decayed. No holes were discovered in any of them, as if made with bullets, arrows, or other weapons. I conjectured that in this barrow might have been a thousand skeletons. Every one will readily seize the circumstances above related, which militate against the opinion, that it covered the bones only of persons fallen in battle; and against the tradition also, which would make it the common sepulchre of a town, in which the bodies were placed upright, and touching each other. Appearances certainly indicate that it has derived both origin and growth from the accustomary collection of bones, and deposition of them together; that the first collection had been deposited on the common surface of the earth, a few stones put over it, and then a covering of earth, that the second had been laid on this, had covered more or less of it in proportion to the number of bones, and was then also covered with earth; and so on. The following are the particular circumstances which give it this aspect. 1. The number of bones. 2. Their confused position. 3. Their being in different strata. 4. The strata in one part having no correspondence with those in another. 5. The different states of decan in these strata, which seem to indicate a difference in the time of inhumation. 6. The existence of infant bones among them.

But on whatever occasion they may have been made, they are of considerable notoriety among the Indians; for a party passing, about thirty years ago, through the part of the country where this barrow is, went through the woods directly to it, without

any instructions or inquiry, and having staid about it for some time, with expressions which were construed to be those of sorrow, they returned to the high road, which they had left about half a dozen miles to pay this visit, and pursued their journey. There is another barrow much resembling this, in the low grounds of the south branch of Shenandoah, where it is crossed by the road leading from the Rockfish gap to Staunton. Both of these have, within these dozen years, been cleared of their trees and put under cultivation, are much reduced in their height, and spread in width, by the plough, and will probably disappear in time. There is another on a hill in the Blue Ridge of mountains, a few miles north of Wood's gap, which is made up of small stones thrown together. This has been opened and found to contain human bones, as the others do. There are also many others in other parts of the country.

Great question has arisen from whence came those aboriginals of America? Discoveries, long ago made, were sufficient to show that the passage from Europe to America was always practicable, even to the imperfect navigation of ancient times. In going from Norway to Iceland, from Iceland to Greenland, from Greenland to Labrador, the first traject is the widest; and this having been practised from the earliest times of which we have any account of that part of the earth, it is not difficult to suppose that the subsequent trajects may have been sometimes passed. Again, the late discoveries of Captain Cook, coasting from Kamschatka to California, have proved that if the two continents of Asia and America be separated at all, it is only by a narrow strait. So that from this side also, inhabitants may have passed into America; and the resemblance between the Indians of America and the eastern inhabitants of Asia, would induce us to conjecture, that the former are the descendants of the latter, or the latter of the former; excepting indeed the Esquimaux, who, from the same circumstance of resemblance, and from identity of language must be derived from the Greenlanders, and these probably from some of the northern parts of the old continent. A knowledge of their several languages would be the most certain evidence of their derivation which could be produced. In fact, it is the

best proof of the affinity of nations which ever can be referred to. How many ages have elapsed since the English, the Dutch, the Germans, the Swiss, the Norwegians, Danes and Swedes have separated from their common stock? Yet how many more must elapse before the proofs of their common origin, which exist in their several languages, will disappear? It is to be lamented then, very much to be lamented, that we have suffered so many of the Indian tribes already to extinguish, without our having previously collected and deposited in the records of literature, the general rudiments at least of the languages they spoke. Were vocabularies formed of all the languages spoken in North and South America, preserving their appellations of the most common objects in nature, of those which must be present to every nation barbarous or civilized, with the inflections of their nouns and verbs, their principles of regimen and concord, and these deposited in all the public libraries, it would furnish opportunities to those skilled in the languages of the old world to compare them with these, now, or at any future time, and hence to construct the best evidence of the derivation of this part of the human race.

But imperfect as is our knowledge of the tongues spoken in America, it suffices to discover the following remarkable fact: Arranging them under the radical ones to which they may be palpably traced, and doing the same by those of the red men of Asia, there will be found probably twenty in America, for one in Asia, of those radical languages, so called because if they were ever the same they have lost all resemblance to one another. A separation into dialects may be the work of a few ages only, but for two dialects to recede from one another till they have lost all vestiges of their common origin, must require an immense course of time; perhaps not less than many people give to the age of the earth. A greater number of those radical changes of language having taken place among the red men of America, proves them of greater antiquity than those of Asia.

I will now proceed to state the nations and numbers of the Aborigines which still exist in a respectable and independent form. And as their undefined boundaries would render it dif-

ficult to specify those only which may be within any certain limits, and it may not be unacceptable to present a more general view of them. I will reduce within the form of a catalogue all those within, and circumjacent to, the United States, whose names and numbers have come to my notice. These are taken from four different lists, the first of which was given in the year 1759 to General Stanwix by George Croghan, deputy agent for Indian affairs under Sir William Johnson; the second was drawn up by a French trader of considerable note, resident among the Indians many years, and annexed to Colonel Bouquet's printed account of his expedition in 1764. The third was made out by Captain Hutchins, who visited most of the tribes, by order, for the purpose of learning their numbers, in 1768; and the fourth by John Dodge, an Indian trader, in 1779, except the numbers marked *, which are from other information.

INDIAN TRIBES.

	TRIBES.	Croghan. 1759.	Bouquet. 1764.	Hutchins. 1768.	Where they reside.
Northward and Westward of the United States.	Oswegatchies	....	....	100	At Swagatchy, on the river St. Laurence.
	Connasedagoes	....		300	Near Montreal.
	Cohunnewagoes	....	200		
	Orondocs	....	....	100	Near Trois Rivieres.
	Abenakies	....	350	150	Near Trois Rivieres.
	Little Alkonkins	....	....	100	Near Trois Rivieres.
	Michmacs	....	700	....	River St. Laurence.
	Amelistes	....	550	....	River St. Laurence.
	Chalas	....	130	....	River St. Laurence.
	Nipissins	....	400	....	Towards the heads of the Ottawas river
	Algonquins	....	300	....	Towards the heads of the Ottawas river.
	Round Heads	....	2,500	....	Riviere aux Tetes boules, on the east side of Lake Superior.
	Messasagues	....	2,000	....	Lakes Huron and Superior.
	Christianaux—Kris	....	3,000	....	Lake Christianaux.
	Assinaboes	....	1,500	....	Lake Assinaboes.
	Blancs, or Barbus	....	1,500	....	
	Sioux of the Meadows		2,500		
	Sioux of the Woods	10,000	1,800	10,000	On the heads of the Mississippi and westward of that river.
	Sioux		....		
	Ajoues	....	1,100	....	North of the Padoucas.
	Panis—White	....	2,000	....	South of the Missouri.
	Panis—Freckled	....	1,709	....	South of the Missouri.
	Padoucas	....	500	....	South of the Missouri.
	Grandes-Eaux	....	1,000	....	
	Canses	....	1,600	....	South of the Missouri.
	Osages	....	600	....	South of the Missouri.
	Missouris	400	3,000	....	On the river Missouri.
	Arkansas	....	2,000	....	On the river Arkansas.
	Caouitas	....	700	....	East of the Alibamous.

	TRIBES.	Croghan. 1759.	Bouquet. 1764.	Hutchins. 1768.	Dodge. 1779.	Where they reside.
Within the limits of the United States.	Mohocks	....	....	160	100	Mohocks river.
	Onèidas	....	....	300	400	East side of Oneida Lake and head branches of Susquehanna.
	Tuscorò ras	....	....	200		Between the Oneidas and Onondagoes.
	Onondàgoes	....	1,550	260	230	Near Onondago Lake.
	Cayùgas	....	....	200	220	On the Cayuga Lake, near the north branch of Susquehanna.
	Senecas	....	....	1,000	650	On the waters of Susquehanna, of Ontario, and the heads of the Ohio.
	Aughquàgahs	....	....	150	....	East branch of Susquehanna, and on Aughquagah.
	Nànticoes	....	....	100	....	Utsanango, Chaghnet, and Owegy, on the east branch of Susquehanna.
	Mohiccons	....	....	100	....	In the same parts.
	Conòies	....	....	30	....	In the same parts.
	Sapònies	....	....	30	....	At Diahago and other villages up the north branch of Susquehanna.
	Mùnsies	....	....	150	*150	At Diahago and other villages up the north branch of Susquehanna.
	Delawares, or Linnelinopies	....	....	150		At Diahago and other villages up the north branch of Susquehanna.
	Delawares, or Linnellnopies	600	600	600	*500	Between Ohio and Lake Erie and the branches of Beaver creek, Cayahoga and Muskingum.
	Shàwanees	500	400	300	300	Sioto and the branches of Muskingum.
	Mingoes	....	....	....	60	On a branch of Sioto.
	Mohiccons	....	....		*60	
	Cohunnewagos	....	....	300	....	Near Sandusky.
	Wyandots	300	300			
	Wyandots		....	250	180	Near Fort St. Joseph's and Detroit.
	Twightwees	300	....	250	....	Miami river near Fort Miami.
	Miamis	....	350	....	300	Miami river, about Fort St. Joseph.
	Ouiàtonons	200	400	300	*400	On the banks of the Wabash, near Fort Ouiatonon.
	Piànkishas	300	250	300	*400	On the banks of the Wabash, near Fort Ouiatonon.
	Shàkirs	....	....	200	...	On the banks of the Wabash, near Fort Ouiatonon.
	Kaskaskias	....		300	....	Near Kaskaska.
	Illinois	400	600	300	....	Near Cahokia. Query, If not the same with the Mitchigamis?
	Piorias	....	800	....	....	On the Illinois river, called Pianrias, but supposed to mean Piorias.
	Ponteòtamies	....	350	300	450	Near Fort St. Joseph's and Fort Detroit.

Within the limits of the United States.	Ottawas	....	....	550	*300	Near Fort St. Joseph's and Fort Detroit.
	Chippawas	....	....	200	....	On Saguinam bay of Lake Huron.
	Ottawas	....	....		....	On Saguinam bay of Lake Huron.
	Chippawas	....	....	400	....	Near Michillimackinac.
	Ottawas	2,000	5,900	250	5,450	Near Michillimackinac.
	Chippawas	....		400	....	Near Fort St. Mary's on Lake Superior.
	Chippawas	....	....	....	....	Several other villages along the banks of Lake Superior. Numbers unknown.
	Chippawas	....	....	....	....	Near Puans bay on Lake Michigan.
	Shakies	200	400	550	....	Near Puans bay on Lake Michigan.
	Mynonámies	....	....	....	....	Near Puans bay on Lake Michigan.
	Ouisconsings	....	550	....	....	Ouisconsing river.
	Kickapous	600	300	....	250	
	Otogamies—Foxes	....	....	....	....	
	Mascoutens	....	500	4,000	....	On Lake Michigan, and between that and the Mississippi.
	Miscòthins	....	....		....	
	Outimacs	....	....	....	....	
	Musquakies	200	250	....	250	
	Sioux. Eastern	....	....	....	500	On the eastern heads of the Mississippi, and the islands of Lake Superior.
				Galphin. 1678.		
	Cherokees	1,500	2.500	3,000	....	Western parts of North Carolina.
	Chickasaws	....	750	500	....	Western parts of Georgia.
	Catawbas	....	150	....	....	On the Catawba river in South Carolina.
	Chacktaws	2,000	4,500	6,000	....	Western parts of Georgia.
	Upper Creeks	....	....	3,000	....	Western parts of Georgia.
	Lower Creeks	....	1,180		....	
	Natchez	....	150	....	....	
	Alibamous	....	600	....	....	Alabama river, in the western parts of Georgia.

The following tribes are also mentioned:

Croghan's Catal.	Lezar	400	From the mouth of Ohio to the mouth of Wabash.
	Webings	200	On the Mississippi below the Shakies.
	Ousasoys, Grand Tuc	4,000	On White Creek, a branch of the Mississippi.
	Linways	1,000	On the Mississippi.
Bouquet's.	Les Puans	700	Near Puans Bay.
	Folle Avoine	350	Near Puans Bay.
	Ouanakina	300	Conjectured to be tribes of the Creeks.
	Chiakanessou	350	
	Machecous	800	
	Souikilas	200	
Dodge's.	Minneamis	2,000	North-west of Lake Michigan, to the heads of Mississippi, and up to Lake Superior.
	Piankishas, Mascoutins, Vermillions,	800	On and near the Wabash toward the Illinois.

But apprehending these might be different appellations for some of the tribes already enumerated, I have not inserted them in the table, but state them separately as worthy of further inquiry. The variations observable in numbering the same tribe may sometimes be ascribed to imperfect information, and sometimes to a greater or less comprehension of settlements under the same name. (7)

QUERY XII.

A notice of the counties, cities, townships, and villages?

The counties have been enumerated under Query IX. They are seventy-four in number, of very unequal size and population. Of these thirty-five are on the tide waters, or in that parallel; twenty-three are in the midlands, between the tide waters and Blue Ridge of mountains; eight between the Blue Ridge and Alleghany; and eight westward of the Alleghany.

The State, by another division, is formed into parishes, many of which are commensurate with the counties; but sometimes a county comprehends more than one parish, and sometimes a parish more than one county. This division had relation to the

religion of the State, a portion of the Anglican church, with a fixed salary, having been heretofore established in each parish. The care of the poor was another object of the parochial division.

We have no townships. Our country being much intersected with navigable waters, and trade brought generally to our doors, instead of our being obliged to go in quest of it, has probably been one of the causes why we have no towns of any consequence. Williamsburg, which, till the year 1780, was the seat of our government, never contained above 1,800 inhabitants; and Norfolk, the most populous town we ever had, contained but 6,000. Our towns, but more properly our villages and hamlets, are as follows:

On *James River* and its waters, Norfolk, Portsmouth, Hampton, Suffolk, Smithfield, Williamsburg, Petersburg, Richmond, the seat of our government, Manchester, Charlottesville, New London.

On *York River* and its waters, York, Newcastle, Hanover.

On *Rappahannock*, Urbanna, Port-Royal, Fredericksburg, Falmouth.

On *Potomac* and its waters, Dumfries, Colchester, Alexandria, Winchester, Staunton.

On *Ohio*, Louisville.

There are other places at which, like some of the foregoing, the *laws* have said there shall be towns; but *nature* has said there shall not, and they remain unworthy of enumeration. *Norfolk* will probably be the emporium for all the trade of the Chesapeake bay and its waters; and a canal of eight or ten miles will bring to it all that of Albermale sound and its waters. Secondary to this place, are the towns at the head of the tide waters, to wit, Petersburg on Appomattox; Richmond on James river; Newcastle on York river; Alexandria on Potomac, and Baltimore on Patapsco. From these the distribution will be to subordinate situations in the country. Accidental circumstances, however, may control the indications of nature, and in no instance do they do it more frequently than in the rise and fall of towns.

QUERY XIII.

The constitution of the State and its several charters?

Queen Elizabeth by her letters patent, bearing date March 25, 1584, licensed Sir Walter Raleigh to search for remote heathen lands, not inhabited by Christian people, and granted to him in fee simple, all the soil within two hundred leagues of the places where his people should, within six years, make their dwellings or abidings; reserving only to herself and her successors, their allegiance and one-fifth part of all the gold and silver ore they should obtain. Sir Walter immediately sent out two ships, which visited Wococon island in North Carolina, and the next year despatched seven with one hundred and seven men, who settled in Roanoke island, about latitude 35° 50′. Here Okisko, king of the Weopomeiocs, in a full council of his people is said to have acknowledged himself the homager of the Queen of England, and, after her, of Sir Walter Raleigh. A supply of fifty men were sent in 1586, and one hundred and fifty in 1587. With these last Sir Walter sent a governor, appointed him twelve assistants, gave them a charter of incorporation, and instructed them to settle on Chesapeake bay. They landed, however, at Hatorask. In 1588, when a fleet was ready to sail with a new supply of colonists and necessaries, they were detained by the Queen to assist against the Spanish armada. Sir Walter having now expended £40,000 in these enterprises, obstructed occasionally by the crown without a shilling of aid from it, was under a necessity of engaging others to adventure their money. He, therefore, by deed bearing date the 7th of March, 1589, by the name of Sir Walter Raleigh, Chief Governor of Assamàcomòc, (probably Acomàc,) alias Wingadacoia, alias Virginia, granted to Thomas Smith and others, in consideration of their adventuring certain sums of money, liberty to trade to this new country free from all customs and taxes for seven years, excepting the fifth part of the gold and silver ore to be obtained; and stipulated with them and the other assistants, then in Virginia, that he would confirm the deed of incorporation which he had

given in 1587, with all the prerogatives, jurisdictions, royalties and privileges granted to him by the Queen. Sir Walter, at different times, sent five other adventurers hither, the last of which was in 1602; for in 1603 he was attainted and put into close imprisonment, which put an end to his cares over his infant colony. What was the particular fate of the colonists he had before sent and seated, has never been known; whether they were murdered, or incorporated with the savages.

Some gentlemen and merchants, supposing that by the attainder of Sir Walter Raleigh the grant to him was forfeited, not inquiring over carefully whether the sentence of an English court could affect lands not within the jurisdiction of that court, petitioned king James for a new grant of Virginia to them. He accordingly executed a grant to Sir Thomas Gates and others, bearing date the 9th of March, 1607, under which, in the same year, a settlement was effected at Jamestown, and ever after maintained. Of this grant, however, no particular notice need be taken, as it was superceded by letters patent of the same king, of May 23, 1609, to the Earl of Salisbury and others, incorporating them by the name of "The Treasurer and company of Adventurers and Planters of the City of London for the first colony in Virginia," granting to them and their successors all the lands in Virginia from Point Comfort along the sea-coast, to the northward two hundred miles, and from the same point along the sea-coast to the southward two hundred miles, and all the space from this precinct on the sea-coast up into the land, west and north-west, from sea to sea, and the islands within one hundred miles of it, with all the communities, jurisdictions, royalties. privileges, franchises, and pre-eminencies, within the same, and thereto and thereabouts, by sea and land, appertaining in as ample manner as had before been granted to any adventurer; to be held of the king and his successors, in common soccage, yielding one-fifth part of the gold and silver ore to be therein found, for all manner of services; establishing a counsel in England for the direction of the enterprise, the members of which were to be chosen and displaced by the voice of the majority of the company and adventurers, and were to have the nomination

and revocation of governors, officers, and ministers, which by them should be thought needful for the colony, the power of establishing laws and forms of government and magistracy, obligatory not only within the colony, but also on the seas in going and coming to and from it; authorizing them to carry thither any persons who should consent to go, freeing them forever from all taxes and impositions on any goods or merchandise on importations into the colony, or exportation out of it, except the five per cent. due for custom on all goods imported into the British dominions, according to the ancient trade of merchants; which five per cent. only being paid they might, within thirteen months, re-export the same goods into foreign parts, without any custom, tax, or other duty, to the king or any of his officers, or deputies; with powers of waging war against those who should annoy them; giving to the inhabitants of the colony all the rights of natural subjects, as if born and abiding in England; and declaring that these letters should be construed, in all doubtful parts, in such manner as should be most for the benefit of the grantees.

Afterwards on the 12th of March, 1612, by other letters patent, the king added to his former grants, all islands in any part of the ocean between the 30th and 41st degrees of latitude, and within three hundred leagues of any of the parts before granted to the treasurer and company, not being possessed or inhabited by any other Christian prince or state, nor within the limits of the northern colony.

In pursuance of the authorities given to the company by these charters, and more especially of that part in the charter of 1609, which authorized them to establish a form of government, they on the 24th of July, 1621, by charter under their common seal, declared that from thenceforward there should be two supreme councils in Virginia, the one to be called the council of state, to be placed and displaced by the treasurer, council in England, and company from time to time, whose office was to be that of assisting and advising the governor; the other to be called the general assembly, to be convened by the governor once yearly or oftener, which was to consist of the council of state, and two burgesses out of every town, hundred, or plantation, to be re-

spectively chosen by the inhabitants. In this all matters were to be decided by the greater part of the votes present; reserving to the governor a negative voice; and they were to have power to treat, consult, and conclude all emergent occasions concerning the public weal, and to make laws for the behoof and government of the colony, imitating and following the laws and policy of England as nearly as might be; providing that these laws should have no force till ratified in a general court of the company in England, and returned under their common seal; and declaring that, after the government of the colony should be well framed and settled, no orders of the council in England should bind the colony unless ratified in the said general assembly. The king and company quarrelled, and by a mixture of law and force, the latter were ousted of all their rights without retribution, after having expended one hundred thousand pounds in establishing the colony, without the smallest aid from government. King James suspended their powers by proclamation of July 15, 1624, and Charles I. took the government into his own hands. Both sides had their partisans in the colony, but, in truth, the people of the colony in general thought themselves little concerned in the dispute. There being three parties interested in these several charters, what passed between the first and second, it was thought could not affect the third. If the king seized on the powers of the company, they only passed into other hands, without increase or diminution, while the rights of the people remained as they were. But they did not remain so long. The northern parts of their country were granted away to the lords Baltimore and Fairfax; the first of these obtaining also the rights of separate jurisdiction and government. And in 1650 the parliament, considering itself as standing in the place of their deposed king, and as having succeeded to all his powers, without as well as within the realm, began to assume a right over the colonies, passing an act for inhibiting their trade with foreign nations. This succession to the exercise of kingly authority gave the first color for parliamentary interference with the colonies, and produced that fatal precedent which they continued to follow, after they had retired, in other respects, within their proper

functions. When this colony, therefore, which still maintained its opposition to Cromwell and the parliament, was induced in 1651 to lay down their arms, they previously secured their most essential rights by a solemn convention, which, having never seen in print, I will here insert literally from the records.

"ARTICLES agreed on and concluded at James Cittie in Virginia for the surrendering and settling of that plantation under the obedience and government of the commonwealth of England by the commissioners of the Councill of State by authoritie of the parliamt of England, and by the Grand assembly of the Gov ernour, Councill, and Burgesses of that countrey.

"First it is agreed and consted that the plantation of Virginia, and all the inhabitants thereof, shall be and remain in due obedience and subjection to the Commonwealth of England, according to the laws there established, and that this submission and subscription bee acknowledged a voluntary act not forced nor constrained by a conquest upon the countrey, and that they shall have and enjoy such freedoms and priviledges as belong to the free borne people of England, and that the former government by the Commissions and Instructions be void and null.

"2ly. That the Grand assembly as formerly shall convene and transact the affairs of Virginia, wherein nothing is to be acted or done contrairie to the government of the Commonwealth of England and the lawes there established.

"3ly. That there shall be a full and totall remission and indempnitie of all acts. words, or writeings done or spoken against the parliament of England in relation to the same.

"4ly. That Virginia shall have and enjoy the antient bounds and lymitts granted by the charters of the former kings, and that we shall seek a new charter from the parliament to that purpose against any that have intrencht upon the rights thereof.

"5ly. That all the pattents of land granted under the colony seal by any of the precedent governours shall be and remaine in their full force and strength.

"6ly. That the priviledge of haveing ffiftie acres of land for every person transported in that collonie shall continue as formerly granted.

"7ly. That the people of Virginia have free trade as the people of England do enjoy to all places and with all nations according to the lawes of that commonwealth, and that Virginia shall enjoy all priviledges equall with any English plantations in America.

"8ly. That Virginia shall be free from all taxes, customs and impositions whatsoever, and none to be imposed on them without consent of the Grand assembly; and soe that neither fforts nor castle bee erected or garrisons maintained without their consent.

"9ly. That noe charge shall be required from this country in respect of this present ffleet.

"10ly. That for the future settlement of the countrey in their due obedience, the engagement shall be tendred to all the inhabitants according to act of parliament made to that purpose, that all persons who shall refuse to subscribe the said en-

gagement, shall have a yeare's time if they please to remove themselves and their estates out of Virginia, and in the meantime during the said yeare to have equall justice as formerly.

"11ly. That the use of the booke of common prayer shall be permitted for one yeare ensueinge with referrence to the consent of the major part of the parishes, provided that those which relate to kingshipp or that government be not used publiquely, and the continuance of ministers in their places, they not misdemeaning themselves, and the payment of their accustomed dues and agreements made with them respectively shall be left as they now stand dureing this ensueing yeare.

"12ly. That no man's cattell shall be questioned as the companies, unless such as have been entrusted with them or have disposed of them without order.

"13ly. That all ammunition, powder and armes, other than for private use, shall be delivered up, securitie being given to make satisfaction for it.

"14ly. That all goods allreadie brought hither by the Dutch or others which are now on shoar shall be free from surprizall.

"15ly. That the quittrents granted unto us by the late kinge for seaven yeares bee confirmed.

"16ly. That the commissioners for the parliament subscribeing these articles engage themselves and the honour of parliament for the full performance thereof; and that the present governour, and the councill, and the burgesses do likewise subscribe and engage the whole collony on their parts.

RICHARD BENNETT.—Seale.
WILLIAM CLAIBORNE.—Seale.
EDMOND CURTIS.—Seale.

"Theise articles were signed and sealed by the Commissioners of the Councill of state for the Commonwealth of England the twelveth day of March 1651."

Then follow the articles stipulated by the governor and council, which relate merely to their own persons and property, and then the ensuing instrument:

"An act of indempnitie made att the surrender of the countrey.

"Whereas, by the authoritie of the parliament wee the commissioners appointed by the councill of state authorized thereto, having brought a ffleet and force before James cittie in Virginia to reduce that collonie under the obedience of the commonwealth of England, and finding force raised by the Governour and countrey to make opposition against the said ffleet, whereby assured danger appearinge of the ruine and destruction of the plantation, for prevention whereof the burgesses of all the severall plantations being called to advise and assist therein, uppon long and serious debate, and in sad contemplation of the great miseries and certain destruction which were soe neerely hovering over the whole countrey; Wee the said Commissioners have thought fitt and condescending and granted to signe and confirme under our hands, seales and by our oath, Articles bearinge date with theise presents, and do further declare that by the authoritie of the parliament and commonwealth of England derived unto us their commissioners, that according to the articles in generall wee have granted an act of indempnitie and oblivion to

all the inhabitants of this collonie from all words, actions, or writings that have been spoken acted or writt against the parliament or commonwealth of England or any other person from the beginning of the world to this daye. And this we have done that all the inhabitants of the collonie may live quietly and securely under the commonwealth of England. And we do promise that the parliament and commonwealth of England shall confirm and make good all those transactions of ours. Witness our hands and seales this 12th of March 1651.

RICHARD BENNETT.—Seale.
WILLIAM CLAIBORNE.—Seale.
EDMOND CURTIS.—Seale.

The colony supposed, that, by this solemn convention, entered into with arms in their hands, they had secured the ancient limits* of their country, its free trade,† its exemption from taxation‡ but by their own assembly, and exclusion of military force§ from among them. Yet in every of these points was this convention violated by subsequent kings and parliaments, and other infractions of their constitution, equally dangerous committed. Their general assembly, which was composed of the council of state and burgesses, sitting together and deciding by plurality of voices, was split into two houses, by which the council obtained a separate negative on their laws. Appeals from their supreme court, which had been fixed by law in their general assembly, were arbitrarily revoked to England, to be there heard before the king and council. Instead of four hundred miles on the seacoast, they were reduced, in the space of thirty years, to about one hundred miles. Their trade with foreigners was totally suppressed, and when carried to Great Britain, was there loaded with imposts. It is unnecessary, however, to glean up the several instances of injury, as scattered through American and British history, and the more especially as, by passing on to the accession of the present king, we shall find specimens of them all, aggravated, multiplied and crowded within a small compass of time, so as to evince a fixed design of considering our rights natural, conventional and chartered as mere nullities. The following is an epitome of the first sixteen years of his reign: The colonies were taxed internally and externally; their essential interests sacrificed to individuals in Great Britain; their

* Art. 4. † Art. 7. ‡ Art. 8. § Art. 8.

legislatures suspended; charters annulled; trials by juries taken away; their persons subjected to transportation across the Atlantic, and to trial before foreign judicatories; their supplications for redress thought beneath answer; themselves published as cowards in the councils of their mother country and courts of Europe; armed troops sent among them to enforce submission to these violences; and actual hostilities commenced against them. No alternative was presented but resistance, or unconditional submission. Between these could be no hesitation. They closed in the appeal to arms. They declared themselves independent states. They confederated together into one great republic; thus securing to every State the benefit of an union of their whole force. In each State separately a new form of government was established. Of ours particularly the following are the outlines: The executive powers are lodged in the hands of a governor, chosen annually, and incapable of acting more then three years in seven. He is assisted by a council of eight members. The judiciary powers are divided among several courts, as will be hereafter explained. Legislation is exercised by two houses of assembly, the one called the house of Delegates, composed of two members from each county, chosen annually by the citizens, possessing an estate for life in one hundred acres of uninhabited land, or twenty-five acres with a house on it, or in a house or lot in some town: the other called the Senate, consisting of twenty-four members, chosen quadrenially by the same electors, who for this purpose are distributed into twenty-four districts. The concurrence of both houses is necesary to the passage of a law. They have the appointment of the governor and council, the judges of the superior courts, auditors, attorney-general, treasurer, register of the land office, and delegates to Congress. As the dismemberment of the State had never had its confirmation, but, on the contrary, had always been the subject of protestation and complaint, that it might never be in our own power to raise scruples on that subject, or to disturb the harmony of our new confederacy, the grants to Maryland, Pennsylvania, and the two Carolinas, were ratified.

This constitution was formed when we were new and unex-

perienced in the science of government. It was the first, too, which was formed in the whole United States. No wonder then that time and trial have discovered very capital defects in it.

1. The majority of the men in the State, who pay and fight for its support, are unrepresented in the legislature, the roll of freeholders entitled to vote not including generally the half of those on the roll of the militia, or of the tax-gatherers.

2. Among those who share the representation, the shares are very unequal. Thus the county of Warwick, with only one hundred fighting men, has an equal representation with the county of Loudon, which has one thousand seven hundred and forty-six. So that every man in Warwick has as much influence in the government as seventeen men in Loudon. But lest it should be thought that an equal interspersion of small among large counties, through the whole State, may prevent any danger of injury to particular parts of it, we will divide it into districts, and show the proportions of land, of fighting men, and of representation in each:

	Square miles.	Fighting men.	Delegates.	Senators.
Between the sea-coast and falls of the rivers	*11,205	19,012	71	12
Between the falls of the rivers and and Blue Ridge of mountains .	18,759	18,828	46	8
Between the Blue Ridge and the Alleghany	11,911	7,673	16	2
Between the Alleghany and Ohio	†79,650	4,458	16	2
Total	121,525	49,971	149	24

An inspection of this table will supply the place of commentaries on it. It will appear at once that nineteen thousand men, living below the falls of the rivers, possess half the senate, and want four members only of possessing a majority of the house of delegates; a want more than supplied by the vicinity of their situation to the seat of government, and of course the greater degree of convenience and punctuality with which their members may and will attend in the legislature. These nineteen thousand,

* Of these 542 are on the eastern shore.

† Of these, 22,616 are eastward of the meridian of the north of the Great Kanhaway.

therefore, living in one part of the country, give law to upwards of thirty thousand living in another, and appoint all their chief officers, executive and judiciary. From the difference of their situation and circumstances, their interests will often be very different.

3. The senate is, by its constitution, too homogenous with the house of delegates. Being chosen by the same electors, at the same time, and out of the same subjects, the choice falls of course on men of the same description. The purpose of establishing different houses of legislation is to introduce the influence of different interests or different principles. Thus in Great Britain it is said their constitution relies on the house of commons for honesty, and the lords for wisdom; which would be a rational reliance, if honesty were to be bought with money, and if wisdom were hereditary. In some of the American States, the delegates and senators are so chosen, as that the first represent the persons, and the second the property of the State. But with us, wealth and wisdom have equal chance for admission into both houses. We do not, therefore, derive from the separation of our legislature into two houses, those benefits which a proper complication of principles are capable of producing, and those which alone can compensate the evils which may be produced by their dissensions.

4. All the powers of government, legislative, executive, and judiciary, result to the legislative body. The concentrating these in the same hands is precisely the definition of despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands, and not by a single one. One hundred and seventy-three despots would surely be as oppressive as one. Let those who doubt it turn their eyes on the republic of Venice. As little will it avail us that they are chosen by ourselves. An *elective despotism* was not the government we fought for, but one which should not only be founded on free principles, but in which the powers of government should be so divided and balanced among several bodies of magistracy, as that no one could transcend their legal limits, without being effectually checked and restrained by the others. For this reason that con-

vention which passed the ordinance of government, laid its foundation on this basis, that the legislative, executive, and judiciary departments should be separate and distinct, so that no person should exercise the powers of more than one of them at the same time. But no barrier was provided between these several powers. The judiciary and executive members were left dependent on the legislative, for their subsistence in office, and some of them for their continuance in it. If, therefore, the legislature assumes executive and judiciary powers, no opposition is likely to be made; nor, if made, can it be effectual; because in that case they may put their proceedings into the form of an act of assembly, which will render them obligatory on the other branches. They have, accordingly, in many instances, decided rights which should have been left to judiciary controversy; and the direction of the executive, during the whole time of their session, is becoming habitual and familiar. And this is done with no ill intention. The views of the present members are perfectly upright. When they are led out of their regular province, it is by art in others, and inadvertence in themselves. And this will probably be the case for some time to come. But it will not be a very long time. Mankind soon learn to make interested uses of every right and power which they possess, or may assume. The public money and public liberty, intended to have been deposited with three branches of magistracy, but found inadvertently to be in the hands of one only, will soon be discovered to be sources of wealth and dominion to those who hold them; distinguished, too, by this tempting circumstance, that they are the instrument, as well as the object of acquisition. With money we will get men, said Cæsar, and with men we will get money. Nor should our assembly be deluded by the integrity of their own purposes, and conclude that these unlimited powers will never be abused, because themselves are not disposed to abuse them. They should look forward to a time, and that not a distant one, when a corruption in this, as in the country from which we derive our origin, will have seized the heads of government, and be spread by them through the body of the people; when they will purchase the voices of the people, and

make them pay the price. Human nature is the same on every side of the Atlantic, and will be alike influenced by the same causes. The time to guard against corruption and tyranny, is before they shall have gotten hold of us. It is better to keep the wolf out of the fold, than to trust to drawing his teeth and talons after he shall have entered. To render these considerations the more cogent, we must observe in addition:

5. That the ordinary legislature may alter the constitution itself. On the discontinuance of assemblies, it became necessary to substitute in their place some other body, competent to the ordinary business of government, and to the calling forth the powers of the State for the maintenance of our opposition to Great Britain. Conventions were therefore introduced, consisting of two delegates from each county, meeting together and forming one house, on the plan of the former house of burgesses, to whose places they succeeded. These were at first chosen anew for every particular session. But in March 1775, they recommended to the people to choose a convention, which should continue in office a year. This was done, accordingly, in April 1775, and in the July following that convention passed an ordinance for the election of delegates in the month of April annually. It is well known, that in July 1775, a separation from Great Britain and establishment of republican government, had never yet entered into any person's mind. A convention, therefore, chosen under that ordinance, cannot be said to have been chosen for the purposes which certainly did not exist in the minds of those who passed it. Under this ordinance, at the annual election in April 1776, a convention for the year was chosen. Independence, and the establishment of a new form of government, were not even yet the objects of the people at large. One extract from the pamphlet called Common Sense had appeared in the Virginia papers in February, and copies of the pamphlet itself had got in a few hands. But the idea had not been opened to the mass of the people in April, much less can it be said that they had made up their minds in its favor.

So that the electors of April 1776, no more than the legislators of July 1775, not thinking of independence and a perma-

nent republic, could not mean to vest in these delegates powers of establishing them, or any authorities other than those of the ordinary legislature. So far as a temporary organization of government was necessary to render our opposition energetic, so far their organization was valid. But they received in their creation no power but what were given to every legislature before and since. They could not, therefore, pass an act transcendent to the powers of other legislatures. If the present assembly pass an act, and declare it shall be irrevocable by subsequent assemblies, the declaration is merely void, and the act repealable, as other acts are. So far, and no farther authorized, they organized the government by the ordinance entitled a constitution or form of government. It pretends to no higher authority than the other ordinances of the same session; it does not say that it shall be perpetual; that it shall be unalterable by other legislatures; that it shall be transcendent above the powers of those who they knew would have equal power with themselves. Not only the silence of the instrument is a proof they thought it would be alterable, but their own practice also; for this very convention, meeting as a house of delegates in general assembly with the Senate in the autumn of that year, passed acts of assembly in contradiction to their ordinance of government; and every assembly from that time to this has done the same. I am safe, therefore, in the position that the constitution itself is alterable by the ordinary legislature. Though this opinion seems founded on the first elements of common sense, yet is the contrary maintained by some persons. 1. Because, say they, the conventions were vested with every power necessary to make effectual opposition to Great Britain. But to complete this argument, they must go on, and say further, that effectual opposition could not be made to Great Britain without establishing a form of government perpetual and unalterable by the legislature; which is not true. An opposition which at some time or other was to come to an end, could not need a perpetual institution to carry it on; and a government amendable as its defects should be discovered, was as likely to make effectual resistance, as one that should be unalterably wrong. Besides, the assemblies were as much vested

with all powers requisite for resistance as the conventions were. If, therefore, these powers included that of modelling the form of government in the one case, they did so in the other. The assemblies then as well as the conventions may model the government; that is, they may alter the ordinance of government. 2. They urge, that if the convention had meant that this instrument should be alterable, as their other ordinances were, they would have called it an ordinance; but they have called it a *constitution*, which, ex vi termini, means "an act above the power of the ordinary legislature." I answer that *constitutio*, *constitutium*, *statutum*, *lex*, are convertible terms. "*Constitutio* dicitur jus quod a principe conditure." "*Constitutium*, quod ab imperatoribus rescriptum statutumve est." "*Statutum*, idem quod lex." Calvini Lexicon juridicum. *Constitution* and *statute* were originally terms of the* civil law, and from thence introduced by ecclesiastics into the English law. Thus in the statute 25 Hen. VIII. c. 19, §. 1, "*Constitutions* and *ordinances*" are used as synonymous. The term *constitution* has many other significations in physics and politics; but in jurisprudence, whenever it is applied to any act of the legislature, it invariably means a statute, law, or ordinance, which is the present case. No inference then of a different meaning can be drawn from the adoption of this title; on the contrary, we might conclude that, by their affixing to it a term synonymous with ordinance or statute. But of what consequence is their meaning, where their power is denied? If they meant to do more than they had power to do, did this give them power? It is not the name, but the authority that renders an act obligatory. Lord Coke says, "an article of the statute, 11 R. II. c. 5, that no person should attempt to revoke any ordinance then made, is repealed, for that such restrainst is against the jurisdiction and power of the parliament." 4. Inst. 42. And again, "though divers parliaments have attempted to restrain subsequent parliaments, yet could they never effect it; for the latter parliament hath ever power to abrogate, suspend, qualify, explain, or make void the former in the

* To bid, to set, was the ancient legislative word of the English. Ll. Hlotharri and Eadrici. Ll. Inæ. Ll. Eadwerdi. Ll. Aathelstani.

whole or in any part thereof, notwithstanding any words of restraint, prohibition, or penalty, in the former; for it is a maxim in the laws of the parliament, quod leges posteriores priores contrarias abrogant." 4. Inst. 43. To get rid of the magic supposed to be in the word *constitution*, let us translate it into its definition as given by those who think it above the power of the law; and let us suppose the convention, instead of saying, "We the ordinary legislature, establish a *constitution*," had said, "We the ordinary legislature, establish an act *above the power of the ordinary legislature*." Does not this expose the absurdity of the attempt? 3. But, say they, the people have acquiesced, and this has given it an authority superior to the laws. It is true that the people did not rebel against it; and was that a time for the people to rise in rebellion? Should a prudent acquiescence, at a critical time, be construed into a confirmation of every illegal thing done during that period? Besides, why should they rebel? At an annual election they had chosen delegates for the year, to exercise the ordinary powers of legislation, and to manage the great contest in which they were engaged. These delegates thought the contest would be best managed by an organized government. They therefore, among others, passed an ordinance of government. They did not presume to call it perpetual and unalterable. They well knew they had no power to make it so; that our choice of them had been for no such purpose, and at a time when we could have no such purpose in contemplation. Had an unalterable form of government been meditated, perhaps we should have chosen a different set of people. There was no cause then for the people to rise in rebellion. But to what dangerous lengths will this argument lead? Did the acquiescence of the colonies under the various acts of power exercised by Great Britain in our infant State, confirm these acts, and so far invest them with the authority of the people as to render them unalterable, and our present resistance wrong? On every unauthoritative exercise of power by the legislature must the people rise in rebellion, or their silence be construed into a surrender of that power to them? If so, how many rebellions should we have had already? One certainly for every session of as-

sembly. The other States in the union have been of opinion that to render a form of government unalterable by ordinary acts of assembly, the people must delegate persons with special powers. They have accordingly chosen special conventions to form and fix their governments. The individuals then who maintain the contrary opinion in this country, should have the modesty to suppose it possible that they may be wrong, and the rest of America right. But if there be only a possibility of their being wrong, if only a plausible doubt remains of the validity of the ordinance of government, is it not better to remove that doubt by placing it on a bottom which none will dispute? If they be right we shall only have the unnecessary trouble of meeting once in convention. If they be wrong, they expose us to the hazard of having no fundamental rights at all. True it is, this is no time for deliberating on forms of government. While an enemy is within our bowels, the first object is to expel him. But when this shall be done, when peace shall be established, and leisure given us for intrenching within good forms, the rights for which we have bled, let no man be found indolent enough to decline a little more trouble for placing them beyond the reach of question. If anything more be requisite to produce a conviction of the expediency of calling a convention at a proper season to fix our form of government, let it be the reflection:

6. That the assembly exercises a power of determining the quorum of their own body which may legislate for us. After the establishment of the new form they adhered to the *Lex majoris partis*, founded in* common law as well as common right. It is the† natural law of every assembly of men, whose numbers are not fixed by any other law. They continued for some time to require the presence of a majority of their whole number, to pass an act. But the British parliament fixes its own quorum; our former assemblies fixed their own quorum; and one precedent in favor of power is stronger than an hundred against it. The house of delegates, therefore, have‡ lately voted that, during the present dangerous invasion, forty members shall be a house

* Bro. abr. Corporations, 31, 34. Hakewell, 93.

† Puff. Off. hom. l. 2, c. 6, §. 12. ‡ June 4, 1781.

to proceed to business. They have been moved to this by the fear of not being able to collect a house. But this danger could not authorize them to call that a house which was none ; and if they may fix it at one number, they may at another, till it loses its fundamental character of being a representative body. As this vote expires with the present invasion, it is probable the former rule will be permitted to revive ; because at present no ill is meant. The power, however, of fixing their own quorum has been avowed, and a precedent set. From forty it may be reduced to four, and from four to one ; from a house to a committee, from a committee to a chairman or speaker, and thus an oligarchy or monarchy be substituted under forms supposed to be regular. " Omnia mala exempla ex bonis orta sunt ; sed ubi imperium ad ignaros aut minus bonos pervenit, novum illud exemplum ab dignis et idoneis adindignos et non idoneos fertur." When, therefore, it is considered, that there is no legal obstacle to the assumption by the assembly of all the powers legislative, executive, and judiciary, and that these may come to the hands of the smallest rag of delegation, surely the people will say, and their representatives, while yet they have honest representatives, will advise them to say, that they will not acknowledge as laws any acts not considered and assented to by the major part of their delegates.

In enumerating the defects of the constitution, it would be wrong to count among them what is only the error of particular persons. In December 1776, our circumstances being much distressed, it was proposed in the house of delegates to create a *dictator*, invested with every power legislative, executive, and judiciary, civil and military, of life and of death, over our persons and over our properties ; and in June 1781, again under calamity, the same proposition was repeated, and wanted a few votes only of being passed. One who entered into this contest from a pure love of liberty, and a sense of injured rights, who determined to make every sacrifice, and to meet every danger, for the re-establishment of those rights on a firm basis, who did not mean to expend his blood and substance for the wretched purpose of changing this matter for that, but to place the powers of

governing him in a plurality of hands of his own choice, so that the corrupt will of no one man might in future oppress him, must stand confounded and dismayed when he is told, that a considerable portion of that plurality had mediated the surrender of them into a single hand, and, in lieu of a limited monarchy, to deliver him over to a despotic one! How must we find his efforts and sacrifices abused and baffled, if he may still, by a single vote, be laid prostrate at the feet of one man! In God's name, from whence have they derived this power? Is it from our ancient laws? None such can be produced. Is it from any principle in our new constitution expressed or implied? Every lineament expressed or implied, is in full opposition to it. Its fundamental principle is, that the State shall be governed as a commonwealth. It provides a republican organization, proscribes under the name of *prerogative* the exercise of all powers undefined by the laws; places on this basis the whole system of our laws; and by consolidating them together, chooses that they should be left to stand or fall together, never providing for any circumstances, nor admitting that such could arise, wherein either should be suspended; no, not for a moment. Our ancient laws expressly declare, that those who are but delegates themselves shall not delegate to others powers which require judgment and integrity in their exercise. Or was this proposition moved on a supposed right in the movers, of abandoning their posts in a moment of distress? The same laws forbid the abandonment of that post, even on ordinary occasions; and much more a transfer of their powers into other hands and other forms, without consulting the people. They never admit the idea that these, like sheep or cattle, may be given from hand to hand without an appeal to their own will. Was it from the necessity of the case? Necessities which dissolve a government, do not convey its authority to an oligarchy or a monarchy. They throw back, into the hands of the people, the powers they had delegated, and leave them as individuals to shift for themselves. A leader may offer, but not impose himself, nor be imposed on them. Much less can their necks be submitted to his sword, their breath to be held at his will or caprice. The necessity which should

operate these tremendous effects should at least be palpable and irresistible. Yet in both instances, where it was feared, or pretended with us, it was belied by the event. It was belied, too, by the preceding experience of our sister States, several of whom had grappled through greater difficulties without abandoning their forms of government. When the proposition was first made, Massachusetts had found even the government of committees sufficient to carry them through an invasion. But we at the time of that proposition, were under no invasion. When the second was made, there had been added to this example those of Rhode Island, New York, New Jersey, and Pennsylvania, in all of which the republican form had been found equal to the task of carrying them through the severest trials. In this State alone did there exist so little virtue, that fear was to be fixed in the hearts of the people, and to become the motive of their exertions, and principle of their government? The very thought alone was treason against the people; was treason against mankind in general; as rivetting forever the chains which bow down their necks, by giving to their oppressors a proof, which they would have trumpeted through the universe, of the imbecility of republican government, in times of pressing danger, to shield them from harm. Those who assume the right of giving away the reins of government in any case, must be sure that the herd, whom they hand on to the rods and hatchet of the dictator, will lay their necks on the block when he shall nod to them. But if our assemblies supposed such a recognition in the people, I hope they mistook their character. I am of opinion, that the government, instead of being braced and invigorated for greater exertions under their difficulties, would have been thrown back upon the bungling machinery of county committees for administration, till a convention could have been called, and its wheels again set into regular motion. What a cruel moment was this for creating such an embarrassment, for putting to the proof the attachment of our countrymen to republican government! Those who meant well, of the advocates of this measure, (and most of them meant well, for I know them personally, had been their fellow-laborer in the common cause, and had often proved the purity

of their principles,) had been seduced in their judgment by the example of an ancient republic, whose constitution and circumstances were fundamentally different. They had sought this precedent in the history of Rome, where alone it was to be found, and where at length, too, it had proved fatal. They had taken it from a republic rent by the most bitter factions and tumults, where the government was of a heavy-handed unfeeling aristocracy, over a people ferocious, and rendered desperate by poverty and wretchedness; tumults which could not be allayed under the most trying circumstances, but by the omnipotent hand of a single despot. Their constitution, therefore, allowed a temporary tyrant to be erected, under the name of a dictator; and that temporary tyrant, after a few examples, became perpetual. They misapplied this precedent to a people mild in their dispositions, patient under their trial, united for the public liberty, and affectionate to their leaders. But if from the constitution of the Roman government there resulted to their senate a power of submitting all their rights to the will of one man, does it follow that the assembly of Virginia have the same authority? What clause in our constitution has substituted that of Rome, by way of residuary provision, for all cases not otherwise provided for? Or if they may step *ad libitum* into any other form of government for precedents to rule us by, for what oppression may not a precedent be found in this world of the *ballum omnium in omnia?* Searching for the foundations of this proposition, I can find none which may pretend a color of right or reason, but the defect before developed, that there being no barrier between the legislative, executive, and judiciary departments, the legislature may seize the whole; that having seized it, and possessing a right to fix their own quorum, they may reduce that quorum to one, whom they may call a chairman, speaker, dictator, or by any other name they please. Our situation is indeed perilous, and I hope my countrymen will be sensible of it, and will apply, at a proper season, the proper remedy; which is a convention to fix the constitution, to amend its defects, to bind up the several branches of government by certain laws, which, when they transgress, their acts shall become nullities; to render unnecessary an

appeal to the people, or in other words a rebellion, on every infraction of their rights, on the peril that their acquiescence shall be construed into an intention to surrender those rights.

QUERY XIV.

The administration of justice and the description of the laws?

The State is divided into counties. In every county are appointed magistrates, called justices of the peace, usually from eight to thirty or forty in number, in proportion to the size of the county, of the most discreet and honest inhabitants. They are nominated by their fellows, but commissioned by the governor, and act without reward. These magistrates have jurisdiction both criminal and civil. If the question before them be a question of law only, they decide on it themselves; but if it be of fact, or of fact and law combined, it must be referred to a jury. In the latter case, of a combination of law and fact, it is usual for the jurors to decide the fact, and to refer the law arising on it to the decision of the judges. But this division of the subject lies with their discretion only. And if the question relate to any point of public liberty, or if it be one of those in which the judges may be suspected of bias, the jury undertake to decide both law and fact. If they be mistaken, a decision against right, which is casual only, is less dangerous to the State, and less afflicting to the loser, than one which makes part of a regular and uniform system. In truth, it is better to toss up cross and pile in a cause, than to refer it to a judge whose mind is warped by any motive whatever, in that particular case. But the common sense of twelve honest men gives still a better chance of just decision, than the hazard of cross and pile. These judges execute their process by the sheriff or coroner of the county, or by constables of their own appointment. If any free person commit an offence against the commonwealth, if it be below the degree of felony, he is bound by a justice to appear before their court, to answer it on an indictment or information.

If it amount to felony, he is committed to jail; a court of these justices is called; if they on examination think him guilty, they send him to the jail of the general court, before which court he is to be tried first by a grand jury of twenty-four, of whom thirteen must concur in opinion; if they find him guilty, he is then tried by a jury of twelve men of the county where the offence was committed, and by their verdict, which must be unanimous, he is acquitted or condemned without appeal. If the criminal be a slave, the trial by the county court is final. In every case, however, except that of high treason, there resides in the governor a power of pardon. In high treason the pardon can only flow from the general assembly. In civil matters these justices have jurisdiction in all cases of whatever value, not appertaining to the department of the admiralty. This jurisdiction is twofold. If the matter in dispute be of less value than four dollars and one-sixth, a single member may try it at any time and place within his county, and may award execution on the goods of the party cast. If it be of that or greater value, it is determinable before the county court, which consists of four at the least of those justices and assembles at the court-house of the county on a certain day in every month. From their determination, if the matter be of the value of ten pounds sterling, or concern the title or bounds of lands, an appeal lies to one of the superior courts.

There are three or four superior courts, to wit, the high court of chancery, the general court, and the court of admiralty. The first and second of these receive appeals from the county courts, and also have original jurisdiction, where the subject of controversy is of the value of ten pounds sterling, or where it concerns the title or bounds of lands. The jurisdiction of the admiralty is original altogether. The high court of chancery is composed of three judges, the general court of five, and the court of admiralty of three. The two first hold their sessions at Richmond at stated times, the chancery twice in the year, and the general court twice for business civil and criminal, and twice more for criminal only. The court of admiralty sits at Williamsburg whenever a controvery arises.

There is one supreme court, called the court of appeals, composed of the judges of the three superior courts, assembling twice a year at stated times at Richmond. This court receives appeals in all civil cases from each of the superior courts, and determines them finally. But it has no original jurisdiction.

If a controversy arise between two foreigners of a nation in alliance with the United States, it is decided by the Consul for their State, or, if both parties choose it, by the ordinary courts of justice. If one of the parties only be such a foreigner, it is triable before the courts of justice of the country. But if it shall have been instituted in a county court, the foreigner may remove it into the general court, or court of chancery, who are to determine it at their first sessions, as they must also do if it be originally commenced before them. In cases of life and death, such foreigners have a right to be tried by a jury, the one-half foreigners, the other natives.

All public accounts are settled with a board of auditors, consisting of three members appointed by the general assembly, any two of whom may act. But an individual, dissatisfied with the determination of that board, may carry his case into the proper superior court.

A description of the laws.

The general assembly was constituted, as has been already shown, by letters-patent of March the 9th, 1607, in the fourth year of the reign of James the first. The laws of England seem to have been adopted by consent of the settlers, which might easily enough be done whilst they were few and living all together. Of such adoption, however, we have no other proof than their practice till the year 1661, when they were expressly adopted by an act of the assembly, except so far as "a difference of condition" rendered them inapplicable. Under this adoption, the rule, in our courts of judicature was, that the common law of England, and the general statutes previous to the fourth of James, were in force here; but that no subsequent statutes were, *unless we were named in them*, said the judges and other partisans of the crown, but *named or not named*, said those who reflected freely. It will be unnecessary to attempt a

description of the laws of England, as that may be found in English publications. To those which were established here, by the adoption of the legislature, have been since added a number of acts of assembly passed during the monarchy, and ordinances of convention and acts of assembly enacted since the establishment of the republic. The following variations from the British model are perhaps worthy of being specified:

Debtors unable to pay their debts, and making faithful delivery of their whole effects, are released from confinement, and their persons forever discharged from restraint for such previous debts; but any property they may afterwards acquire will be subject to their creditors.

The poor unable to support themselves, are maintained by an assessment on the tytheable persons in their parish. This assessment is levied and administered by twelve persons in each parish, called vestrymen, originally chosen by the housekeepers of the parish, but afterwards filling vacancies in their own body by their own choice. These are usually the most discreet farmers, so distributed through their parish, that every part of it may be under the immediate eye of some one of them. They are well acquainted with the details and economy of private life, and they find sufficient inducements to execute their charge well, in their philanthropy, in the approbation of their neighbors, and the distinction which that gives them. The poor who have neither property, friends, nor strength to labor, are boarded in the houses of good farmers, to whom a stipulated sum is annually paid. To those who are able to help themselves a little, or have friends from whom they derive some succors, inadequate however to their full maintenance, supplementary aids are given which enable them to live comfortably in their own houses, or in the houses of their friends. Vagabonds without visible property or vocation, are placed in work houses, where they are well clothed, fed, lodged, and made to labor. Nearly the same method of providing for the poor prevails through all our States; and from Savannah to Portsmouth you will seldom meet a beggar. In the large towns, indeed, they sometimes present themselves. These are usually foreigners, who have never obtained a settle-

ment in any parish. I never yet saw a native American begging in the streets or highways. A subsistence is easily gained here; and if, by misfortunes, they are thrown on the charities of the world, those provided by their own country are so comfortable and so certain, that they never think of relinquishing them to become strolling beggars. Their situation too, when sick, in the family of a good farmer, where every member is emulous to do them kind offices, where they are visited by all the neighbors, who bring them the little rarities which their sickly appetites may crave, and who take by rotation the nightly watch over them, when their condition requires it, is without comparison better than in a general hospital, where the sick, the dying and the dead are crammed together in the same rooms, and often in the same beds. The disadvantages, inseparable from general hospitals, are such as can never be counterpoised by all the regularities of medicine and regimen. Nature and kind nursing save a much greater proportion in our plain way, at a smaller expense, and with less abuse. One branch only of hospital institution is wanting with us; that is, a general establishment for those laboring under difficult cases of chirurgery. The aids of this art are not equivocal. But an able chirurgeon cannot be had in every parish. Such a receptacle should therefore be provided for those patients; but no others should be admitted.

Marriages must be solemnized either on special license, granted by the first magistrate of the county, on proof of the consent of the parent or guardian of either party under age, or after solemn publication, on three several Sundays, at some place of religious worship, in the parishes where the parties reside. The act of solemnization may be by the minister of any society of Christians, who shall have been previously licensed for this purpose by the court of the county. Quakers and Menonists, however, are exempted from all these conditions, and marriage among them is to be solemnized by the society itself.

A foreigner of any nation, not in open war with us, becomes naturalized by removing to the State to reside, and taking an oath of fidelity; and thereupon acquires every right of a native citizen; and citizens may divest themselves of that character,

by declaring, by solemn deed, or in open court, that they mean to expatriate themselves, and no longer to be citizens of this State.

Conveyances of land must be registered in the court of the county wherein they lie, or in the general court, or they are void, as to creditors, and subsequent purchasers.

Slaves pass by descent and dower as lands do. Where the descent is from a parent, the heir is bound to pay an equal share of their value in money to each of their brothers and sisters.

Slaves, as well as lands, were entailable during the monarchy; but, by an act of the first republican assembly, all donees in tail, present and future, were vested with the absolute dominion of the entailed subject.

Bills of exchange, being protested, carry ten per cent. interest from their date.

No person is allowed, in any other case, to take more than five per cent. per annum simple interest for the loan of moneys.

Gaming debts are made void, and moneys actually paid to discharge such debts (if they exceed forty shillings) may be recovered by the payer within three months, or by any other person afterwards.

Tobacco, flour, beef, pork, tar, pitch, and turpentine, must be inspected by persons publicly appointed, before they can be exported.

The erecting iron-works and mills is encouraged by many privileges; with necessary cautions however to prevent their dams from obstructing the navigation of the water-courses. The general assembly have on several occasions shown a great desire to encourage the opening the great falls of James and Potomac rivers. As yet, however, neither of these have been effected.

The laws have also descended to the preservation and improvement of the races of useful animals, such as horses, cattle, deer; to the extirpation of those which are noxious, as wolves, squirrels, crows, blackbirds; and to the guarding our citizens against infectious disorders, by obliging suspected vessels coming into the State, to perform quarantine, and by regulating the conduct of persons having such disorders within the State.

The mode of acquiring lands, in the earliest times of our set-

tlement, was by petition to the general assembly. If the lands prayed for were already cleared of the Indian title, and the assembly thought the prayer reasonable, they passed the property by their vote to the petitioner. But if they had not yet been ceded by the Indians, it was necessary that the petitioner should previously purchase their right. This purchase the assembly verified, by inquiries of the Indian proprietors; and being satisfied of its reality and fairness, proceeded further to examine the reasonableness of the petition, and its consistence with policy; and according to the result, either granted or rejected the petition. The company also sometimes, though very rarely, granted lands, independently of the general assembly. As the colony increased, and individual applications for land multiplied, it was found to give too much occupation to the general assembly to inquire into and execute the grant in every special case. They therefore thought it better to establish general rules, according to which all grants should be made, and to leave to the governor the execution of them, under these rules. This they did by what have been usually called the land laws, amending them from time to time, as their defects were developed. According to these laws, when an individual wished a portion of unappropriated land, he was to locate and survey it by a public officer, appointed for that purpose; its breadth was to bear a certain proportion to its length: the grant was to be executed by the governor; and the lands were to be improved in a certain manner, within a given time. From these regulations there resulted to the State a sole and exclusive power of taking conveyances of the Indian right of soil; since, according to them an Indian conveyance alone could give no right to an individual, which the laws would acknowledge. The State, or the crown, thereafter, made general purchases of the Indians from time to time, and the governor parcelled them out by special grants, conformable to the rules before described, which it was not in his power, or in that of the crown, to dispense with. Grants, unaccompanied by their proper legal circumstances, were set aside regularly by *fiere facias*, or by bill in chancery. Since the establishment of our new government, this order of things is but little changed

An individual, wishing to appropriate to himself lands still unappropriated by any other, pays to the public treasurer a sum of money proportioned to the quantity he wants. He carries the treasurer's receipt to the auditors of public accounts, who thereupon debit the treasurer with the sum, and order the register of the land-office to give the party a warrant for his land. With this warrant from the register, he goes to the surveyor of the county where the land lies on which he has cast his eye. The surveyor lays it off for him, gives him its exact description, in the form of a certificate, which certificate he returns to the land office, where a grant is made out, and is signed by the governor. This vests in him a perfect dominion in his lands, transmissible to whom he pleases by deed or will, or by descent to his heirs, if he die intestate.

Many of the laws which were in force during the monarchy being relative merely to that form of government, or inculcating principles inconsistent with republicanism, the first assembly which met after the establishment of the commonwealth appointed a committee to revise the whole code, to reduce it into proper form and volume, and report it to the assembly. This work has been executed by three gentlemen, and reported; but probably will not be taken up till a restoration of peace shall leave to the legislature leisure to go through such a work.

The plan of the revisal was this. The common law of England, by which is meant, that part of the English law which was anterior to the date of the oldest statutes extant, is made the basis of the work. It was thought dangerous to attempt to reduce it to a text; it was therefore left to be collected from the usual monuments of it. Necessary alterations in that, and so much of the whole body of the British statutes, and of acts of assembly, as were thought proper to be retained, were digested into one hundred and twenty-six new acts, in which simplicity of style was aimed at, as far as was safe. The following are the most remarkable alterations proposed:

To change the rules of descent, so as that the lands of any person dying intestate shall be divisible equally among all his children, or other representatives, in equal degree.

To make slaves distributable among the next of kin, as other movables.

To have all public expenses, whether of the general treasury, or of a parish or county, (as for the maintenance of the poor, building bridges, court-houses, &c.,) supplied by assessment on the citizens, in proportion to their property.

To hire undertakers for keeping the public roads in repair, and indemnify individuals through whose lands new roads shall be opened.

To define with precision the rules whereby aliens should become citizens, and citizens make themselves aliens.

To establish religious freedom on the broadest bottom.

To emancipate all slaves born after the passing the act. The bill reported by the revisers does not itself contain this proposition; but an amendment containing it was prepared, to be offered to the legislature whenever the bill should be taken up, and farther directing, that they should continue with their parents to a certain age, then to be brought up, at the public expense, to tillage, arts, or sciences, according to their geniuses, till the females should be eighteen, and the males twenty-one years of age, when they should be colonized to such place as the circumstances of the time should render most proper, sending them out with arms, implements of household and of the handicraft arts, seeds, pairs of the useful domestic animals, &c., to declare them a free and independent people, and extend to them our alliance and protection, till they have acquired strength; and to send vessels at the same time to other parts of the world for an equal number of white inhabitants; to induce them to migrate hither, proper encouragements were to be proposed. It will probably be asked, Why not retain and incorporate the blacks into the State, and thus save the expense of supplying by importation of white settlers, the vacancies they will leave? Deep-rooted prejudices entertained by the whites; ten thousand recollections, by the blacks, of the injuries they have sustained; new provocations; the real distinctions which nature has made; and many other circumstances, will divide us into parties, and produce convulsions, which will probably never end but in the extermination

of the one or the other race. To these objections, which are political, may be added others, which are physical and moral. The first difference which strikes us is that of color. Whether the black of the negro resides in the reticular membrane between the skin and scarf-skin, or in the scarf-skin itself; whether it proceeds from the color of the blood, the color of the bile, or from that of some other secretion, the difference is fixed in nature, and is as real as if its seat and cause were better known to us. And is this difference of no importance? Is it not the foundation of a greater or less share of beauty in the two races? Are not the fine mixtures of red and white, the expressions of every passion by greater or less suffusions of color in the one, preferable to that eternal monotony, which reigns in the countenances, that immovable veil of black which covers the emotions of the other race? Add to these, flowing hair, a more elegant symmetry of form, their own judgment in favor of the whites, declared by their preference of them, as uniformly as is the preference of the Oranootan for the black woman over those of his own species. The circumstance of superior beauty, is thought worthy attention in the propagation of our horses, dogs, and other domestic animals; why not in that of man? Besides those of color, figure, and hair, there are other physical distinctions proving a difference of race. They have less hair on the face and body. They secrete less by the kidneys, and more by the glands of the skin, which gives them a very strong and disagreeable odor. This greater degree of transpiration, renders them more tolerant of heat, and less so of cold than the whites. Perhaps, too, a difference of structure in the pulminary apparatus, which a late ingenious* experimentalist has discovered to be the principal regulator of animal heat, may have disabled them from extricating, in the act of inspiration, so much of that fluid from the outer air, or obliged them in expiration, to part with more of it. They seem to require less sleep. A black after hard labor through the day, will be induced by the slightest amusements to sit up till midnight, or later, though knowing he must be out with the first dawn of the morning. They are at least as brave,

* Crawford.

and more adventuresome. But this may perhaps proceed from a want of forethought, which prevents their seeing a danger till it be present. When present, they do not go through it with more coolness or steadiness than the whites. They are more ardent after their female; but love seems with them to be more an eager desire, than a tender delicate mixture of sentiment and sensation. Their griefs are transient. Those numberless afflictions, which render it doubtful whether heaven has given life to us in mercy or in wrath, are less felt, and sooner forgotten with them. In general, their existence appears to participate more of sensation than reflection. To this must be ascribed their disposition to sleep when abstracted from their diversions, and unemployed in labor. An animal whose body is at rest, and who does not reflect, must be disposed to sleep of course. Comparing them by their faculties of memory, reason, and imagination, it appears to me that in memory they are equal to the whites; in reason much inferior, as I think one could scarcely be found capable of tracing and comprehending the investigations of Euclid; and that in imagination they are dull, tasteless, and anomalous. It would be unfair to follow them to Africa for this investigation. We will consider them here, on the same stage with the whites, and where the facts are not apochryphal on which a judgment is to be formed. It will be right to make great allowances for the difference of condition, of education, of conversation, of the sphere in which they move. Many millions of them have been brought to, and born in America. Most of them, indeed, have been confined to tillage, to their own homes, and their own society; yet many have been so situated, that they might have availed themselves of the conversation of their masters; many have been brought up to the handicraft arts, and from that circumstance have always been associated with the whites. Some have been liberally educated, and all have lived in countries where the arts and sciences are cultivated to a considerable degree, and all have had before their eyes samples of the best works from abroad. The Indians, with no advantages of this kind, will often carve figures on their pipes not destitute of design and merit. They will crayon out an animal, a plant. or a

country, so as to prove the existence of a germ in their minds which only wants cultivation. They astonish you with strokes of the most sublime oratory; such as prove their reason and sentiment strong, their imagination glowing and elevated. But never yet could I find that a black had uttered a thought above the level of plain narration; never saw even an elementary trait of painting or sculpture. In music they are more generally gifted than the whites with accurate ears for tune and time, and they have been found capable of imagining a small catch.* Whether they will be equal to the composition of a more extensive run of melody, or of complicated harmony, is yet to be proved. Misery is often the parent of the most affecting touches in poetry. Among the blacks is misery enough, God knows, but no poetry. Love is the peculiar œstrum of the poet. Their love is ardent, but it kindles the senses only, not the imagination. Religion, indeed, has produced a Phyllis Whately; but it could not produce a poet. The compositions published under her name are below the dignity of criticism. The heroes of the Dunciad are to her, as Hercules to the author of that poem. Ignatius Sancho has approached nearer to merit in composition; yet his letters do more honor to the heart than the head. They breathe the purest effusions of friendship and general philanthropy, and show how great a degree of the latter may be compounded with strong religious zeal. He is often happy in the turn of his compliments, and his style is easy and familiar, except when he affects a Shandean fabrication of words. But his imagination is wild and extravagant, escapes incessantly from every restraint of reason and taste, and, in the course of its vagaries, leaves a tract of thought as incoherent and eccentric, as is the course of a meteor through the sky. His subjects should often have led him to a process of sober reasoning; yet we find him always substituting sentiment for demonstration. Upon the whole, though we admit him to the first place among those of his own color who have presented themselves to the

* The instrument proper to them is the Banjar, which they brought hither from Africa, and which is the original of the guitar, its chords being precisely the four lower chords of the guitar.

public judgment, yet when we compare him with the writers of the race among whom he lived and particularly with the epistolary class in which he has taken his own stand, we are compelled to enrol him at the bottom of the column. This criticism supposes the letters published under his name to be genuine, and to have received amendment from no other hand; points which would not be of easy investigation. The improvement of the blacks in body and mind, in the first instance of their mixture with the whites, has been observed by every one, and proves that their inferiority is not the effect merely of their condition of life. We know that among the Romans, about the Augustan age especially, the condition of their slaves was much more deplorable than that of the blacks on the continent of America. The two sexes were confined in separate apartments, because to raise a child cost the master more than to buy one. Cato, for a very restricted indulgence to his slaves in this particular*, took from them a certain price. But in this country the slaves multiply as fast as the free inhabitants. Their situation and manners place the commerce between the two sexes almost without restraint. The same Cato, on a principle of economy, always sold his sick and superannuated slaves. He gives it as a standing precept to a master visiting his farm, to sell his old oxen, old wagons, old tools, old and diseased servants, and everything else become useless. "Vendat boves vetulos, plaustrum vetus, ferramenta vetera, servum senem, servum morbosum, et si quid aliud supersit vendat." Cato de re rusticâ, c. 2. The American slaves cannot enumerate this among the injuries and insults they receive. It was the common practice to expose in the island Æsculapius, in the Tyber, diseased slaves whose cure was like to become tedious.† The emperor Claudius, by an edict, gave freedom to such of them as should recover, and first declared that if any person chose to kill rather than to expose them, it should not be deemed homicide. The exposing them is a crime of which no instance has existed with us; and were it to be followed by death, it would be punished capitally. We are told of a certain

* Tous doulous etaxen örismenou nomesmatos homilein tais therapainsin.—Plutarch. Cato. † Suet. Claud. 25.

Vedius Pollio, who, in the presence of Augustus, would have given a slave as food to his fish, for having broken a glass. With the Romans, the regular method of taking the evidence of their slaves was under torture. Here it has been thought better never to resort to their evidence. When a master was murdered, all his slaves, in the same house, or within hearing, were condemned to death. Here punishment falls on the guilty only, and as precise proof is required against him as against a freeman. Yet notwithstanding these and other discouraging circumstances among the Romans, their slaves were often their rarest artists. They excelled too in science, insomuch as to be usually employed as tutors to their master's children. Epictetus, Terence, and Phædrus, were slaves. But they were of the race of whites. It is not their condition then, but nature, which has produced the distinction. Whether further observation will or will not verify the conjecture, that nature has been less bountiful to them in the endowments of the head, I believe that in those of the heart she will be found to have done them justice. That disposition to theft with which they have been branded, must be ascribed to their situation, and not to any depravity of the moral sense. The man in whose favor no laws of property exist, probably feels himself less bound to respect those made in favor of others. When arguing for ourselves, we lay it down as a fundamental, that laws, to be just, must give a reciprocation of right; that, without this, they are mere arbitrary rules of conduct, founded in force, and not in conscience; and it is a problem which I give to the master to solve, whether the religious precepts against the violation of property were not framed for him as well as his slave? And whether the slave may not as justifiably take a little from one who has taken all from him, as he may slay one who would slay him? That a change in the relations in which a man is placed should change his ideas of moral right or wrong, is neither new, nor peculiar to the color of the blacks. Homer tells us it was so two thousand six hundred years ago.

'Emisu, ger t' aretes apoainutai euruopa Zeus
Haneros, eut' an min kata doulion ema elesin.
Odd. 17, 323.

> Jove fix'd it certain, that whatever day
> Makes man a slave, takes half his worth away.

But the slaves of which Homer speaks were whites. Notwithstanding these considerations which must weaken their respect for the laws of property, we find among them numerous instances of the most rigid integrity, and as many as among their better instructed masters, of benevolence, gratitude, and unshaken fidelity. The opinion that they are inferior in the faculties of reason and imagination, must be hazarded with great diffidence. To justify a general conclusion, requires many observations, even where the subject may be submitted to the anatomical knife, to optical glasses, to analysis by fire or by solvents. How much more then where it is a faculty, not a substance, we are examining; where it eludes the research of all the senses; where the conditions of its existence are various and variously combined; where the effects of those which are present or absent bid defiance to calculation; let me add too, as a circumstance of great tenderness, where our conclusion would degrade a whole race of men from the rank in the scale of beings which their Creater may perhaps have given them. To our reproach it must be said, that though for a century and a half we have had under our eyes the races of black and of red men, they have never yet been viewed by us as subjects of natural history. I advance it, therefore, as a suspicion only, that the blacks, whether originally a distinct race, or made distinct by time and circumstances, are inferior to the whites in the endowments both of body and mind. It is not against experience to suppose that different species of the same genus, or varieties of the same species, may possess different qualifications. Will not a lover of natural history then, one who views the gradations in all the races of animals with the eye of philosophy, excuse an effort to keep those in the department of man as distinct as nature has formed them? This unfortunate difference of color, and perhaps of faculty, is a powerful obstacle to the emancipation of these people. Many of their advocates, while they wish to vindicate the liberty of human nature, are anxious also to preserve its dignity and beauty. Some of these, embarrassed by the ques-

tion, "What further is to be done with them?" join themselvse in opposition with those who are actuated by sordid avarice only. Among the Romans emancipation required but one effort. The slave, when made free, might mix with, without staining the blood of his master. But with us a second is necessary, unknown to history. When freed, he is to be removed beyond the reach of mixture.

The revised code further proposes to proportion crimes and punishments. This is attempted on the following scale:

I. Crimes whose punishment extends to LIFE.
1. High treason. Death by hanging.
Forfeiture of lands and goods to the commonwealth.
2. Petty treason. Death by hanging. Dissection.
Forfeiture of half the lands and goods to the representatives of the party slain.
3. Murder. I. By poison. Death by poison.
Forfeiture of one-half, as before.
2. In duel. Death by hanging. Gibbeting, if the challenger.
Forfeiture of one-half as before, unless it be the party challenged, then the forfeiture is to the commonwealth.
3. In any other way. Death by hanging.
Forfeiture of one-half as before.
4. Manslaughter. The second offence is murder.

II. Crimes whose punishment goes to LIMB.
1. Rape.....
2. Sodomy ... } Dismemberment.
3. Maiming...
4. Disfiguring } Retaliation, and the forfeiture of half of the lands and goods to the sufferer.

III. Crimes punishable by LABOR.

1. Manslaughter, 1st offence.	Labor VII. years for the public.		Forfeiture of half, as in murder.
2. Counterfeiting money.	Labor VI. years	..	Forfeiture of lands and goods to the commonwealth.
3. Arson. 4. Asportation of vessels.	Labor V. years	..	Reparation three-fold.
5. Robbery. 6. Burglary.	Labor IV. years	..	Reparation double.
7. House-breaking. 8. Horse-stealing.	Labor III. years	..	Reparation.
9. Grand larceny.	Labor II. years	..	Reparation. Pillory.
10. Petty larceny.	Labor I. year	..	Reparation. Pillory. Stripes.
11. Pretensions to witchcraft, &c.	Ducking.		
12. Excusable homicide. 13. Suicide. 14. Apostasy. Heresy.	To be pitied, not punished.		

Pardon and privilege of clergy are proposed to be abolished; but if the verdict be against the defendant, the court in their discretion may allow a new trial. No attainder to cause a corruption of blood, or forfeiture of dower. Slaves guilty of offences punishable in others by labor, to be transported to Africa, or elsewhere, as the circumstances of the time admit, there to be continued in slavery. A rigorous regimen proposed for those condemned to labor.

Another object of the revisal is, to diffuse knowledge more

generally through the mass of the people. This bill proposes to lay off every county into small districts of five or six miles square, called hundreds, and in each of them to establish a school for teaching, reading, writing, and arithmetic. The tutor to be supported by the hundred, and every person in it entitled to send their children three years gratis, and as much longer as they please, paying for it. These schools to be under a visitor who is annually to choose the boy of best genius in the school, of those whose parents are too poor to give them further education, and to send him forward to one of the grammar schools, of which twenty are proposed to be erected in different parts of the country, for teaching Greek, Latin, Geography, and the higher branches of numerical arithmetic. Of the boys thus sent in one year, trial is to be made at the grammar schools one or two years, and the best genius of the whole selected, and continued six years, and the residue dismissed. By this means twenty of the best geniuses will be raked from the rubbish annually, and be instructed, at the public expense, so far as the grammar schools go. At the end of six years instruction, one half are to be discontinued (from among whom the grammar schools will probably be supplied with future masters); and the other half, who are to be chosen for the superiority of their parts and disposition, are to be sent and continued three years in the study of such sciences as they shall choose, at William and Mary college, the plan of which is proposed to be enlarged, as will be hereafter explained, and extended to all the useful sciences. The ultimate result of the whole scheme of education would be the teaching all the children of the State reading, writing, and common arithmetic; turning out ten annually, of superior genius, well taught in Greek, Latin, Geography, and the higher branches of arithmetic; turning out ten others annually, of still superior parts, who, to those branches of learning, shall have added such of the sciences as their genius shall have led them to; the furnishing to the wealthier part of the people convenient schools at which their children may be educated at their own expense. The general objects of this law are to provide an education adapted to the years, to the capacity, and the condition of every

one, and directed to their freedom and happiness. Specific details were not proper for the law. These must be the business of the vistors entrusted with its execution. The first stage of this education being the schools of the hundreds, wherein the great mass of the people will receive their instruction, the principal foundations of future order will be laid here. Instead, therefore, of putting the Bible and Testament into the hands of the children at an age when their judgments are not sufficiently matured for religious inquiries, their memories may here be stored with the most useful facts from Grecian, Roman, European and American history. The first elements of morality too may be instilled into their minds; such as, when further developed as their judgments advance in strength, may teach them how to work out their own greatest happiness, by showing them that it does not depend on the condition of life in which chance has placed them, but is always the result of a good conscience, good health, occupation, and freedom in all just pursuits. Those whom either the wealth of their parents or the adoption of the State shall destine to higher degrees of learning, will go on to the grammar schools, which constitute the next stage, there to be instructed in the languages. The learning Greek and Latin, I am told, is going into disuse in Europe. I know not what their manners and occupations may call for; but it would be very ill-judged in us to follow their example in this instance. There is a certain period of life, say from eight to fifteen or sixteen years of age, when the mind like the body is not yet firm enough for laborious and close operations. If applied to such, it falls an early victim to premature exertion; exhibiting, indeed, at first, in these young and tender subjects, the flattering appearance of their being men while they are yet children, but ending in reducing them to be children when they should be men. The memory is then most susceptible and tenacious of impressions; and the learning of languages being chiefly a work of memory, it seems precisely fitted to the powers of this period, which is long enough too for acquiring the most useful languages, ancient and modern. I do not pretend that language is science. It is only an instrument for the attainment of science. But that

time is not lost which is employed in providing tools for future operation; more especially as in this case the books put into the hands of the youth for this purpose may be such as will at the same time impress their minds with useful facts and good principles. If this period be suffered to pass in idleness, the mind becomes lethargic and impotent, as would the body it inhabits if unexercised during the same time. The sympathy between body and mind during their rise, progress and decline, is too strict and obvious to endanger our being missed while we reason from the one to the other. As soon as they are of sufficient age, it is supposed they will be sent on from the grammar schools to the university, which constitutes our third and last stage, there to study those sciences which may be adapted to their views. By that part of our plan which prescribes the selection of the youths of genius from among the classes of the poor, we hope to avail the State of those talents which nature has sown as liberally among the poor as the rich, but which perish without use, if not sought for and cultivated. But of the views of this law none is more important, none more legitimate, than that of rendering the people the safe, as they are the ultimate, guardians of their own liberty. For this purpose the reading in the first stage, where *they* will receive their whole education, is proposed, as has been said, to be chiefly historical. History, by apprizing them of the past, will enable them to judge of the future; it will avail them of the experience of other times and other nations; it will qualify them as judges of the actions and designs of men; it will enable them to know ambition under every disguise it may assume; and knowing it, to defeat its views. In every government on earth is some trace of human weakness, some germ of corruption and degeneracy, which cunning will discover, and wickedness insensibly open, cultivate and improve. Every government degenerates when trusted to the rulers of the people alone. The people themselves therefore are its only safe depositories. And to render even them safe, their minds must be improved to a certain degree. This indeed is not all that is necessary, though it be essentially necessary. An amendment of our constitution must here come in aid of the public education. The influence

over government must be shared among all the people. If every individual which composes their mass participates of the ultimate authority, the government will be safe; because the corrupting the whole mass will exceed any private resources of wealth; and public ones cannot be provided but by levies on the people. In this case every man would have to pay his own price. The government of Great Britain has been corrupted, because but one man in ten has a right to vote for members of parliament. The sellers of the government, therefore, get nine-tenths of their price clear. It has been thought that corruption is restrained by confining the right of suffrage to a few of the wealthier of the people; but it would be more effectually restrained by an extension of that right to such numbers as would bid defiance to the means of corruption.

Lastly, it is proposed, by a bill in this revisal, to begin a public library and gallery, by laying out a certain sum annually in books, paintings, and statues.

QUERY XV.

The Colleges and Public Establishments, the Roads, Buildings, &c.

The college of William and Mary is the only public seminary of learning in this State. It was founded in the time of king William and queen Mary, who granted to it twenty thousand acres of land, and a penny a pound duty on certain tobaccoes exported from Virginia and Maryland, which had been levied by the statute of 25 Car. II. The assembly also gave it, by temporary laws, a duty on liquors imported, and skins and furs exported. From these resources it received upwards of three thousand pounds *communibus annis*. The buildings are of brick, sufficient for an indifferent accommodation of perhaps an hundred students. By its charter it was to be under the government of twenty visitors, who were to be its legislators, and to

have a president and six professors, who were incorporated It was allowed a representative in the general assembly. Under this charter, a professorship of the Greek and Latin languages, a professorship of mathematics, one of moral philosophy, and two of divinity, were established. To these were annexed, for a sixth professorship, a considerable donation by Mr. Boyle, of England, for the instruction of the Indians, and their conversion to Christianity. This was called the professorship of Brafferton, from an estate of that name in England, purchased with the monies given. The admission of the learners of Latin and Greek filled the college with children. This rendering it disagreeable and degrading to young gentlemen already prepared for entering on the sciences, they were discouraged from resorting to it, and thus the schools for mathematics and moral philosophy, which might have been of some service, became of very little. The revenues, too, were exhausted in accommodating those who came only to acquire the rudiments of science. After the present revolution, the visitors, having no power to change those circumstances in the constitution of the college which were fixed by the charter, and being therefore confined in the number of the professorships, undertook to change the objects of the professorships. They excluded the two schools for divinity, and that for the Greek and Latin languages, and substituted others; so that at present they stand thus:

A Professorship for Law and Police;
Anatomy and Medicine;
Natural Philosophy and Mathematics;
Moral Philosophy, the Law of Nature and Nations, the Fine Arts;
Modern Languages;
For the Brafferton.

And it is proposed, so soon as the legislature shall have leisure to take up this subject, to desire authority from them to increase the number of professorships, as well for the purpose of subdividing those already instituted, as of adding others for other branches of science. To the professorships usually established in the universities of Europe, it would seem proper to add one for the

ancient languages and literature of the north, on account of their connection with our own language, laws, customs, and history. The purposes of the Brafferton institution would be better answered by maintaining a perpetual mission among the Indian tribes, the object of which, besides instructing them in the principles of Christianity, as the founder requires, should be to collect their traditions, laws, customs, languages, and other circumstances which might lead to a discovery of their relation with one another, or descent from other nations. When these objects are accomplished with one tribe, the missionary might pass on to another.

The roads are under the government of the county courts, subject to be controlled by the general court. They order new roads to be opened wherever they think them necessary. The inhabitants of the county are by them laid off into precincts, to each of which they allot a convenient portion of the public roads to be kept in repair. Such bridges as may be built without the assistance of artificers, they are to build. If the stream be such as to require a bridge of regular workmanship, the court employs workmen to build it, at the expense of the whole county. If it be too great for the county, application is made to the general assembly, who authorize individuals to build it, and to take a fixed toll from all passengers, or give sanction to such other proposition as to them appears reasonable.

Ferries are admitted only at such places as are particularly pointed out by law, and the rates of ferriage are fixed.

Taverns are licensed by the courts, who fix their rates from time to time.

The private buildings are very rarely constructed of stone or brick, much the greatest portion being of scantling and boards, plastered with lime. It is impossible to devise things more ugly, uncomfortable, and happily more perishable. There are two or three plans, on one of which, according to its size, most of the houses in the State are built. The poorest people build huts of logs, laid horizontally in pens, stopping the interstices with mud. These are warmer in winter, and cooler in summer, than the more expensive construction of scantling and plank. The

wealthy attentive to the raising of vegetables, but very little so to fruit. The poorer people attend to neither, living principally on bread and animal diet. This is the more inexcusable, as the climate requires indispensably a free use of vegetable food, for health as well as comfort, and is very friendly to the raising of fruits. The only public buildings worthy mention are the capitol, the palace, the college, and the hospital for lunatics, all of them in Williamsburg, heretofore the seat of our government. The capitol is a light and airy structure, with a portico in front of two orders, the lower of which, being Doric, is tolerably just in its proportions and ornaments, save only that the intercolonations are too large. The upper is Ionic, much too small for that on which it is mounted, its ornaments not proper to the order, nor proportioned within themselves. It is crowned with a pediment, which is too high for its span. Yet, on the whole, it is the most pleasing piece of architecture we have. The palace is not handsome without, but it is spacious and commodious within, is prettily situated, and with the grounds annexed to it, is capable of being made an elegant seat. The college and hospital are rude, misshapen piles, which, but that they have roofs, would be taken for brick-kilns. There are no other public buildings but churches and court-houses, in which no attempts are made at elegance. Indeed, it would not be easy to execute such an attempt, as a workman could scarcely be found capable of drawing an order. The genius of architecture seems to have shed its maledictions over this land. Buildings are often erected, by individuals, of considerable expense. To give these symmetry and taste, would not increase their cost. It would only change the arrangement of the materials, the form and combination of the members. This would often cost less than the burthen of barbarous ornaments with which these buildings are sometimes charged. But the first principles of the art are unknown, and there exists scarcely a model among us sufficiently chaste to give an idea of them. Architecture being one of the fine arts, and as such within the department of a professor of the college, according to the new arrangement, perhaps a spark may fall on some young subjects of natural taste, kindle up their genius, and pro-

duce a reformation in this elegant and useful art. But all we shall do in this way will produce no permanent improvement to our country, while the unhappy prejudice prevails that houses of brick or stone are less wholesome than those of wood. A dew is often observed on the walls of the former in rainy weather, and the most obvious solution is, that the rain has penetrated through these walls. The following facts, however, are sufficient to prove the error of this solution: 1. This dew upon the walls appears when there is no rain, if the state of the atmosphere be moist. 2. It appears upon the partition as well as the exterior walls. 3. So, also, on pavements of brick or stone. 4. It is more copious in proportion as the walls are thicker; the reverse of which ought to be the case, if this hypothesis were just. If cold water be poured into a vessel of stone, or glass, a dew forms instantly on the outside; but if it be poured into a vessel of wood, there is no such appearance. It is not supposed, in the first case, that the water has exuded through the glass, but that it is precipitated from the circumambient air; as the humid particles of vapor, passing from the boiler of an alembic through its refrigerant, are precipitated from the air, in which they are suspended, on the internal surface of the refrigerant. Walls of brick and stone act as the refrigerant in this instance. They are sufficiently cold to condense and precipitate the moisture suspended in the air of the room, when it is heavily charged therewith. But walls of wood are not so. The question then is, whether the air in which this moisture is left floating, or that which is deprived of it, be most wholesome? In both cases the remedy is easy. A little fire kindled in the room, whenever the air is damp, prevents the precipitation on the walls; and this practice, found healthy in the warmest as well as coldest seasons, is as necessary in a wooden as in a stone or brick house. I do not mean to say, that the rain never penetrates through walls of brick. On the contrary, I have seen instances of it. But with us it is only through the northern and eastern walls of the house, after a north-easterly storm, this being the only one which continues long enough to force through the walls. This, however, happens too rarely to give a just character of unwholesomeness to such houses. In a

house, the walls of which are of well-burnt brick and good mortar, I have seen the rain penetrate through but twice in a dozen or fifteen years. The inhabitants of Europe, who dwell chiefly in houses of stone or brick, are surely as healthy as those of Virginia. These houses have the advantage, too, of being warmer in winter and cooler in summer than those of wood; of being cheaper in their first construction, where lime is convenient, and infinitely more durable. The latter consideration renders it of great importance to eradicate this prejudice from the minds of our countrymen. A country whose buildings are of wood, can never increase in its improvements to any considerable degree. Their duration is highly estimated at fifty years. Every half century then our country becomes a *tabula rasa*, whereon we have to set out anew, as in the first moment of seating it. Whereas when buildings are of durable materials, every new edifice is an actual and permanent acquisition to the State, adding to its value as well as to its ornament.

QUERY XVI.

The measures taken with regard to the estates and possessions of the Rebels, commonly called Tories?

A tory has been properly defined to be a traitor in thought but not in deed. The only description, by which the laws have endeavored to come at them, was that of non-jurors, or persons refusing to take the oath of fidelity to the State. Persons of this description were at one time subjected to double taxation, at another to treble, and lastly were allowed retribution, and placed on a level with good citizens. It may be mentioned as a proof, both of the lenity of our government, and unanimity of its inhabitants, that though this war has now raged near seven years, not a single execution for treason has taken place.

Under this query I will state the measures which have been adopted as to British property, the owners of which stand on a

much fairer footing than the tories. By our laws, the same as the English as in this respect, no alien can hold lands, nor alien enemy maintain an action for money, or other movable thing. Lands acquired or held by aliens become forfeited to the State; and, on an action by an alien enemy to recover money, or other movable property, the defendant may plead that he is an alien enemy. This extinguishes his right in the hands of the debtor or holder of his movable property. By our separation from Great Britain, British subjects became aliens, and being at war, they were alien enemies. Their lands were of course forfeited, and their debts irrecoverable. The assembly, however, passed laws at various times, for saving their property. They first sequestered their lands, slaves, and other property on their farms in the hands of commissioners, who were mostly the confidential friends or agents of the owners, and directed their clear profits to be paid into the treasury; and they gave leave to all persons owing debts to British subjects to pay them also into the treasury. The monies so to be brought in were declared to remain the property of the British subject, and if used by the State, were to be repaid, unless an improper conduct in Great Britain should render a detention of it reasonable. Depreciation had at that time, though unacknowledged and unperceived by the whigs, begun in some small degree. Great sums of money were paid in by debtors. At a later period, the assembly, adhering to the political principles which forbid an alien to hold lands in the State, ordered all British property to be sold; and, become sensible of the real progress of depreciation, and of the losses which would thence occur, if not guarded against, they ordered that the proceeds of the sales should be converted into their then worth in tobacco, subject to the future direction of the legislature. This act has left the question of retribution more problematical. In May, 1780, another act took away the permission to pay into the public treasury debts due to British subjects.

QUERY XVII.

The different religions received into that State?

The first settlers in this country were emigrants from England, of the English Church, just at a point of time when it was flushed with complete victory over the religious of all other persuasions. Possessed, as they became, of the powers of making, administering, and executing the laws, they showed equal intolerance in this country with their Presbyterian brethren, who had emigrated to the northern government. The poor Quakers were flying from persecution in England. They cast their eyes on these new countries as asylums of civil and religious freedom; but they found them free only for the reigning sect. Several acts of the Virginia assembly of 1659, 1662, and 1693, had made it penal in parents to refuse to have their children baptized; had prohibited the unlawful assembling of Quakers; had made it penal for any master of a vessel to bring a Quaker into the State; had ordered those already here, and such as should come thereafter, to be imprisoned till they should abjure the country; provided a milder punishment for their first and second return, but death for their third; had inhibited all persons from suffering their meetings in or near their houses, entertaining them individually, or disposing of books which supported their tenets. If no execution took place here, as did in New England, it was not owing to the moderation of the church, or spirit of the legislature, as may be inferred from the law itself; but to historical circumstances which have not been handed down to us. The Anglicans retained full possession of the country about a century. Other opinions began then to creep in, and the great care of the government to support their own church, having begotten an equal degree of indolence in its clergy, two-thirds of the people had become dissenters at the commencement of the present revolution. The laws, indeed, were still oppressive on them, but the spirit of the one party had subsided into moderation, and of the other had risen to a degree of determination which commanded respect.

The present state of our laws on the subject of religion is this. The convention of May 1776, in their declaration of rights, de-

clared it to be a truth, and a natural right, that the exercise of religion should be free; but when they proceeded to form on that declaration the ordinance of government, instead of taking up every principle declared in the bill of rights, and guarding it by legislative sanction, they passed over that which asserted our religious rights, leaving them as they found them. The same convention, however, when they met as a member of the general assembly in October, 1776, repealed all *acts of Parliament* which had rendered criminal the maintaining any opinions in matters of religion, the forbearing to repair to church, and the exercising any mode of worship; and suspended the laws giving salaries to the clergy, which suspension was made perpetual in October, 1779. Statutory oppressions in religion being thus wiped away, we remain at present under those only imposed by the common law, or by our own acts of assembly. At the common law, *heresy* was a capital offence, punishable by burning. Its definition was left to the ecclesiastical judges, before whom the conviction was, till the statute of the 1 El. c. 1 circumscribed it, by declaring, that nothing should be deemed heresy, but what had been so determined by authority of the canonical scriptures, or by one of the four first general councils, or by other council, having for the grounds of their declaration the express and plain words of the scriptures. Heresy, thus circumscribed, being an offence against the common law, our act of assembly of October 1777, c. 17, gives cognizance of it to the general court, by declaring that the jurisdiction of that court shall be general in all matters at the common law. The execution is by the writ *De hæretico comburendo*. By our own act of assembly of 1705, c. 30, if a person brought up in the Christian religion denies the being of a God, or the Trinity, or asserts there are more gods than one, or denies the Christian religion to be true, or the scriptures to be of divine authority, he is punishable on the first offence by incapacity to hold any office or employment ecclesiastical, civil, or military; on the second by disability to sue, to take any gift or legacy, to be guardian, executor, or administrator, and by three years' imprisonment without bail. A father's right to the custody of his own children being founded

in law on his right of guardianship, this being taken away, they may of course be severed from him, and put by the authority of a court into more orthodox hands. This is a summary view of that religious slavery under which a people have been willing to remain, who have lavished their lives and fortunes for the establishment of their civil freedom. *The error seems not sufficiently eradicated, that the operations of the mind, as well as the acts of the body, are subject to the coercion of the laws. But our rulers can have no authority over such natural rights, only as we have submitted to them. The rights of conscience we never submitted, we could not submit. We are answerable for them to our God. The legitimate powers of government extend to such acts only as are injurious to others. But it does me no injury for my neighbor to say there are twenty gods, or no God. It neither picks my pocket nor breaks my leg. If it be said, his testimony in a court of justice cannot be relied on, reject it then, and be the stigma on him. Constraint may make him worse by making him a hypocrite, but it will never make him a truer man. It may fix him obstinately in his errors, but will not cure them. Reason and free inquiry are the only effectual agents against error. Give a loose to them, they will support the true religion by bringing every false one to their tribunal, to the test of their investigation. They are the natural enemies of error, and of error only. Had not the Roman government permitted free inquiry, Christianity could never have been introduced. Had not free inquiry been indulged at the era of the reformation, the corruptions of Christianity could not have been purged away. If it be restrained now, the present corruptions will be protected, and new ones encouraged. Was the government to prescribe to us our medicine and diet, our bodies would be in such keeping as our souls are now. Thus in France the emetic was once forbidden as a medicine, and the potato as an article of food. Government is just as infallible, too, when it fixes systems in physics. Galileo was sent to the Inquisition for affirming that the earth was a sphere; the government had declared it to be as flat as a trencher, and Galileo was obliged to abjure his error. This

* Furneaux passim.

error, however, at length prevailed, the earth became a globe, and Descartes declared it was whirled round its axis by a vortex. The government in which he lived was wise enough to see that this was no question of civil jurisdiction, or we should all have been involved by authority in vortices. In fact, the vortices have been exploded, and the Newtonian principle of gravitation is now more firmly established, on the basis of reason, than it would be were the government to step in, and to make it an article of necessary faith. Reason and experiment have been indulged, and error has fled before them. It is error alone which needs the support of government. Truth can stand by itself. Subject opinion to coercion: whom will you make your inquisitors? Fallible men; men governed by bad passions, by private as well as public reasons. And why subject it to coercion? To produce uniformity. But is uniformity of opinion desirable? No more than of face and stature. Introduce the bed of Procrustes then, and as there is danger that the large men may beat the small, make us all of a size, by lopping the former and stretching the latter. Difference of opinion is advantageous in religion. The several sects perform the office of a *censor morum* over such other. Is uniformity attainable? Millions of innocent men, women, and children, since the introduction of Christianity, have been burnt, tortured, fined, imprisoned; yet we have not advanced one inch towards uniformity. What has been the effect of coercion? To make one half the world fools, and the other half hypocrites. To support roguery and error all over the earth. Let us reflect that it is inhabited by a thousand millions of people. That these profess probably a thousand different systems of religion. That ours is but one of that thousand. That if there be but one right, and ours that one, we should wish to see the nine hundred and ninety-nine wandering sects gathered into the fold of truth. But against such a majority we cannot effect this by force. Reason and persuasion are the only practicable instruments. To make way for these, free inquiry must be indulged; and how can we wish others to indulge it while we refuse it ourselves. But every State, says an inquisitor, has established some religion. No two, say I, have established

the same. Is this a proof of the infallibility of establishments? Our sister States of Pennsylvania and New York, however, have long subsisted without any establishment at all. The experiment was new and doubtful when they made it. It has answered beyond conception. They flourish infinitely. Religion is well supported; of various kinds, indeed, but all good enough; all sufficient to preserve peace and order; or if a sect arises, whose tenets would subvert morals, good sense has fair play, and reasons and laughs it out of doors, without suffering the State to be troubled with it. They do not hang more malefactors than we do. They are not more disturbed with religious dissensions. On the contrary, their harmony is unparalleled, and can be ascribed to nothing but their unbounded tolerance, because there is no other circumstance in which they differ from every nation on earth. They have made the happy discovery, that the way to silence religious disputes, is to take no notice of them. Let us too give this experiment fair play, and get rid, while we may, of those tyrannical laws. It is true, we are as yet secured against them by the spirit of the times. I doubt whether the people of this country would suffer an execution for heresy, or a three years' imprisonment for not comprehending the mysteries of the Trinity. But is the spirit of the people an infallible, a permanent reliance? Is it government? Is this the kind of protection we receive in return for the rights we give up? Besides, the spirit of the times may altar, will altar. Our rulers will become corrupt, our people careless. A single zealot may commence persecutor, and better men be his victims. It can never be too often repeated, that the time for fixing every essential right on a legal basis is while our rulers are honest, and ourselves united. From the conclusion of this war we shall be going down hill. It will not then be necessary to resort every moment to the people for support. They will be forgotten, therefore, and their rights disregarded. They will forget themselves, but in the sole faculty of making money, and will never think of uniting to effect a due respect for their rights. The shackles, therefore, which shall not be knocked off at the conclusion of this war, will remain on us long, will be made heavier and heavier, till our rights shall revive or expire in a convulsion.

QUERY XVIII.

The particular customs and manners that may happen to be received in that State?

It is difficult to determine on the standard by which the manners of a nation may be tried, whether *catholic* or *particular*. It is more difficult for a native to bring to that standard the manners of his own nation, familiarized to him by habit. There must doubtless be an unhappy influence on the manners of our people produced by the existence of slavery among us. The whole commerce between master and slave is a perpetual exercise of the most boisterous passions, the most unremitting despotism on the one part, and degrading submissions on the other. Our children see this, and learn to imitate it; for man is an imitative animal. This quality is the germ of all education in him. From his cradle to his grave he is learning to do what he sees others do. If a parent could find no motive either in his philanthropy or his self-love, for restraining the intemperance of passion towards his slave, it should always be a sufficient one that his child is present. But generally it is not sufficient. The parent storms, the child looks on, catches the lineaments of wrath, puts on the same airs in the circle of smaller slaves, gives a loose to the worst of passions, and thus nursed, educated, and daily exercised in tyranny, cannot but be stamped by it with odious peculiarities. The man must be a prodigy who can retain his manners and morals undepraved by such circumstances. And with what execration should the statesman be loaded, who, permitting one half the citizens thus to trample on the rights of the other, transforms those into despots, and these into enemies, destroys the morals of the one part, and the *amor patriæ* of the other. For if a slave can have a country in this world, it must be any other in preference to that in which he is born to live and labor for another; in which he must lock up the faculties of his nature, contribute as far as depends on his individual endeavors to the evanishment of the human race, or entail his own miserable condition on the endless generations proceeding from him. With

the morals of the people, their industry also is destroyed. For in a warm climate, no man will labor for himself who can make another labor for him. This is so true, that of the proprietors of slaves a very small proportion indeed are ever seen to labor. And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the gift of God? That they are not to be violated but with his wrath? Indeed I tremble for my country when I reflect that God is just; that his justice cannot sleep forever; that considering numbers, nature and natural means only, a revolution of the wheel of fortune, an exchange of situation is among possible events; that it may become probable by supernatural interference! The Almighty has no attribute which can take side with us in such a contest. But it is impossible to be temperate and to pursue this subject through the various considerations of policy, of morals, of history natural and civil. We must be contented to hope they will force their way into every one's mind. I think a change already perceptible, since the origin of the present revolution. The spirit of the master is abating, that of the slave rising from the dust, his condition mollifying, the way I hope preparing, under the auspices of heaven, for a total emancipation, and that this is disposed, in the order of events, to be with the consent of the masters, rather than by their extirpation.

QUERY XIX.

The present state of manufactures, commerce, interior and exterior trade?

We never had an interior trade of any importance. Our exterior commerce has suffered very much from the beginning of the present contest. During this time we have manufactured within our families the most necessary articles of clothing. Those of cotton will bear some comparison with the same kinds of manufacture in Europe; but those of wool, flax and hemp are

very coarse, unsightly, and unpleasant; and such is our attachment to agriculture, and such our preference for foreign manufactures, that be it wise or unwise, our people will certainly return as soon as they can, to the raising raw materials, and exchanging them for finer manufactures than they are able to execute themselves.

The political economists of Europe have established it as a principle, that every State should endeavor to manufacture for itself; and this principle, like many others, we transfer to America, without calculating the difference of circumstance which should often produce a difference of result. In Europe the lands are either cultivated, or locked up against the cultivator. Manufacture must therefore be resorted to of necessity not of choice, to support the surplus of their people. But we have an immensity of land courting the industry of the husbandman. Is it best then that all our citizens should be employed in its improvement, or that one half should be called off from that to exercise manufactures and handicraft arts for the other? Those who labor in the earth are the chosen people of God, if ever He had a chosen people, whose breasts He has made His peculiar deposit for substantial and genuine virtue. It is the focus in which he keeps alive that sacred fire, which otherwise might escape from the face of the earth. Corruption of morals in the mass of cultivators is a phenomenon of which no age nor nation has furnished an example. It is the mark set on those, who, not looking up to heaven, to their own soil and industry, as does the husbandman, for their subsistence, depend for it on casualties and caprice of customers. Dependence begets subservience and venality, suffocates the germ of virtue, and prepares fit tools for the designs of ambition. This, the natural progress and consequence of the arts, has sometimes perhaps been retarded by accidental circumstances; but, generally speaking, the proportion which the aggregate of the other classes of citizens bears in any State to that of its husbandmen, is the proportion of its unsound to its healthy parts, and is a good enough barometer whereby to measure its degree of corruption. While we have land to labor then, let us never wish to see our citizens occupied at a work-

bench, or twirling a distaff. Carpenters, masons, smiths, are wanting in husbandry; but, for the general operations of manufacture, let our workshops remain in Europe. It is better to carry provisions and materials to workmen there, than bring them to the provisions and materials, and with them their manners and principles. The loss by the transportation of commodities across the Atlantic will be made up in happiness and permanence of government. The mobs of great cities add just so much to the support of pure government, as sores do to the strength of the human body. It is the manners and spirit of a people which preserve a republic in vigor. A degeneracy in these is a canker which soon eats to the heart of its laws and constitution.

QUERY XX.

A notice of the commercial productions particular to the State, and of those objects which the inhabitants are obliged to get from Europe and from other parts of the world?

Before the present war we exported, *communibus annis*, according to the best information I can get, nearly as follows:

Articles.	Quantity.	Price in Dollars.	Amount in Dollars
Tobacco	55,000 hhds of 1,000 lbs.	at 30d. per hhd.	$1,650,000
Wheat	800,000 bushels.	at 5-6d. per bush.	666,666⅔
Indian corn	600,000 "	at ⅓d. per bush.	200,000
Shipping	.....	....	100,000
Masts, planks, scantling, shingles, staves	.....	....	66,666⅔
Tar, pitch, turpentine	30,000 barrels.	at 1⅓d. per bbl.	40,000
Peltry, viz., skins of deer, beavers, otters, musk rats, raccoons, foxes	180 hhds. of 600 lbs.	at 5-12d. per lb.	42,000
Pork	4,000 barrels.	at 10d. per bbl.	40,000
Flax-seed, hemp, cotton	.....	....	8,000
Pit coal, pig iron	.....	....	6,666⅔
Peas	5,000 bushels.	at ⅔d. per bush.	3,333⅓
Beef	1,000 barrels.	at 3⅓d. per bbl.	3,333⅓
Sturgeon, white shad, herring	.....	....	3,333⅓
Brandy from peaches and apples, and whiskey	.....	....	1,666⅔
Horses	.....	....	1,666⅔
	.....	....	*$2,833,333⅓

* This sum is equal to £850,000; Virginia money, 607,142 guineas.

In the year 1758 we exported seventy thousand hogsheads of tobacco, which was the greatest quantity ever produced in this country in one year. But its culture was fast declining at the commencement of this war and that of wheat taken its place; and it must continue to decline on the return of peace. I suspect that the change in the temperature of our climate has become sensible to that plant, which to be good, requires an extraordinary degree of heat. But it requires still more indispensably an uncommon fertility of soil; and the price which it commands at market will not enable the planter to produce this by manure. Was the supply still to depend on Virginia and Maryland alone as its culture becomes more difficult, the price would rise so as to enable the planter to surmount those difficulties and to live. But the western country on the Mississippi, and the midlands of Georgia, having fresh and fertile lands in abundance, and a hotter sun, will be able to undersell these two States, and will oblige them to abandon the raising of tobacco altogether. And a happy obligation for them it will be. It is a culture productive of infinite wretchedness. Those employed in it are in a continual state of exertion beyond the power of nature to support. Little food of any kind is raised by them; so that the men and animals on these farms are badly fed, and the earth is rapidly impoverished. The cultivation of wheat is the reverse in every circumstance. Besides clothing the earth with herbage, and preserving its fertility, it feeds the laborers plentifully, requires from them only a moderate toil, except in the season of harvest, raises great numbers of animals for food and service, and diffuses plenty and happiness among the whole. We find it easier to make an hundred bushels of heat than a thousand weight of tobacco, and they are worth more when made. The weavil indeed is a formidable obstacle to the cultivation of this grain with us. But principles are already known which must lead to a remedy. Thus a certain degree of heat, to wit, that of the common air in summer, is necessary to hatch the eggs. If subterranean granaries, or others, therefore, can be contrived below that temperature, the evil will be cured by cold. A degree of heat beyond that which hatches the egg we know will kill it. But in aiming

at this we easily run into that which produced putrefaction. To produce putrefaction, however, three agents are requisite, heat moisture, and the external air. If the absence of any one of these be secured, the other two may safely be admitted. Heat is the one we want. Moisture then, or external air, must be excluded. The former has been done by exposing the grain in kilns to the action of fire, which produces heat, and extracts moisture at the same time; the latter, by putting the grain into hogsheads, covering it with a coating of lime, and heading it up. In this situation its bulk produced a heat sufficient to kill the eggs; the moisture is suffered to remain indeed, but the external air is excluded. A nicer operation yet has been attempted; that is, to produce an intermediate temperature of heat between that which kills the egg, and that which produces putrefaction. The threshing the grain as soon as it is cut, and laying it in its chaff in large heaps, has been found very nearly to hit this temperature, though not perfectly, nor always. The heap generates heat sufficient to kill most of the eggs, whilst the chaff commonly restrains it from rising into putrefaction. But all these methods abridge too much the quantity which the farmer can manage, and enable other countries to undersell him, which are not infested with this insect. There is still a desideratum then to give with us decisive triumph to this branch of agriculture over that of tobacco. The culture of wheat by enlarging our pasture, will render the Arabian horse an article of very considerable profit. Experience has shown that ours is the particular climate of America where he may be raised without degeneracy. Southwardly the heat of the sun occasions a deficiency of pasture, and northwardly the winters are too cold for the short and fine hair, the particular sensibility and constitution of that race. Animals transplanted into unfriendly climates, either change their nature and acquire new senses against the new difficulties in which they are placed, or they multiply poorly and become extinct. A good foundation is laid for their propagation here by our possessing already great numbers of horses of that blood, and by a decided taste and preference for them established among the people. Their patience of heat without injury, their

superior wind, fit them better in this and the more southern climates even for the drudgeries of the plough and wagon. Northwardly they will become an object only to persons of taste and fortune, for the saddle and light carriages. To those, and for these uses, their fleetness and beauty will recommend them. Besides these there will be other valuable substitutes when the cultivation of tobacco shall be discontinued such as cotton in the eastern parts of the State, and hemp and flax in the western.

It is not easy to say what are the articles either of necessity, comfort, or luxury, which we cannot raise, and which we therefore shall be under a necessity of importing from abroad, as everything hardier than the olive, and as hardy as the fig, may be raised here in the open air. Sugar, coffee and tea, indeed, are not between these limits; and habit having placed them among the necessaries of life with the wealthy part of our citizens, as long as these habits remain we must go for them to those countries which are able to furnish them.

QUERY XXI.

The weights, measures and the currency of the hard money? Some details relating to exchange with Europe?

Our weights and measures are the same which are fixed by acts of parliament in England. How it has happened that in this as well as the other American States the nominal value of coin was made to differ from what it was in the country we had left, and to differ among ourselves too, I am not able to say with certainty. I find that in 1631 our house of burgesses desired of the privy council in England, a coin debased to twenty-five per cent.; that in 1645 they forbid dealing by barter for tobacco, and established the Spanish piece of eight at six shillings, as the standard of their currency; that in 1655 they changed it to five shillings sterling. In 1680 they sent an address to the king, in consequence of which, by proclamation in 1683, he fixed the value of French crowns, rix dollars, and pieces of eight, at six

shillings, and the coin of New England at one shilling. That in 1710, 1714, 1727, and 1762, other regulations were made, which will be better presented to the eye stated in the form of a table as follows:

	1710.	1714.	1727.	1762.
Guineas	....	26s.		
British gold coin not milled, gold coin of Spain and France, chequins, Arabian gold, moidores of Portugal	....	5s. dwt.		
Coined gold of the empire	....	5s. dwt.	....	4s. 3d. dwt.
English milled silver money, in proportion to the crown, at	....	5s. 10d.	6s. 3d.	
Pieces of eight of Mexico, Seville & Pillar, ducatoons of Flanders, French ecus, or silver Louis, crusados of Portugal	3¾d. dwt.	....	4d. dwt.	
Peru pieces, cross dollars, and old rix dollars of the empire	3½d. dwt.	....	3¾d. dwt.	
Old British silver coin not milled	....	3¾d. dwt.		

The first symptom of the depreciation of our present paper money, was that of silver dollars selling at six shillings, which had before been worth but five shilling and ninepence. The assembly thereupon raised them by law to six shillings. As the dollar is now likely to become the money-unit of America, as it passes at this rate in some of our sister States, and as it facilitates their computation in pounds and shillings, &c., converso, this seems to be more convenient than its former denomination. But as this particular coin now stands higher than any other in the proportion of one hundred and thirty-three and a half to one hundred and twenty-five, or sixteen to fifteen, it will be necessary to raise the others in proportion.

QUERY XXII.

The public Income and expenses?

The nominal amount of these varying constantly and rapidly, with the constant and rapid depreciation of our paper money, it becomes impracticable to say what they are. We find ourselves cheated in every essay by the depreciation intervening between the declaration of the tax and its actual receipt. It will therefore be more satisfactory to consider what our income may be when

we shall find means of collecting what our people may spare. I should estimate the whole taxable property of this State at an hundred millions of dollars, or thirty millions of pounds, our money. One per cent. on this, compared with anything we ever yet paid, would be deemed a very heavy tax. Yet I think that those who manage well, and use reasonable economy, could pay one and a half per cent., and maintain their household comfortably in the meantime, without aliening any part of their principal, and that the people would submit to this willingly for the purpose of supporting their present contest. We may say, then, that we could raise, from one million to one million and a half of dollars annually, that is from three hundred to four hundred and fifty thousand pounds, Virginia money.

Of our expenses it is equally difficult to give an exact state, and for the same reason. They are mostly stated in paper money, which varying continually, the legislature endeavors at every session, by new corrections, to adapt the nominal sums to the value it is wished they would bear. I will state them, therefore, in real coin, at the point at which they endeavor to keep them:

	Dollars.
The annual expenses of the general assembly are about	20,000
The governor	3,333⅓
The council of state	10,666⅔
Their clerks	1,166⅔
Eleven judges	11,000
The clerk of the chancery	666⅔
The attorney general	1,000
Three auditors and a solicitor	5,333⅓
Their clerks	2,000
The treasurer	2,000
His clerks	2,000
The keeper of the public jail	1,000
The public printer	1,666⅔
Clerks of the inferior courts	43,333⅓
Public levy; this is chiefly for the expenses of criminal justice	40,000
County levy, for bridges, court-houses, prisons, &c.	40,000
Members of Congress	7,000
Quota of the federal civil list, supposed one-sixth of about $78,000	13,000
Expenses of collecting, six per cent. on the above	12,310
The clergy receive only voluntary contributions; suppose them on an average one-eighth of a dollar a tythe on 200,000 tythes	25,000
Contingencies, to make round numbers not far from truth	7,523⅓
	$250,000

or 53,571 guineas. This estimate is exclusive of the military expense. That varies with the force actually employed, and in time of peace will probably be little or nothing. It is exclusive also of the public debts, which are growing while I am writing, and cannot therefore be now fixed. So it is of the maintenance of the poor, which being merely a matter of charity cannot be deemed expended in the administration of government. And if we strike out the $25,000 for the services of the clergy, which neither makes part of that administration, more than what is paid to physicians, or lawyers, and being voluntary, is either much or nothing as every one pleases, it leaves $225,000, equal to 48,208 guineas, the real cost of the apparatus of government with us. This divided among the actual inhabitants of our country, comes to about two-fifths of a dollar, twenty-one pence sterling, or forty-two sols, the price which each pays annually for the protection of the residue of his property, and the other advantages of a free government. The public revenues of Great Britain divided in like manner on its inhabitants would be sixteen times greater. Deducting even the double of the expenses of government, as before estimated, from the million and a half of dollars which we before supposed might be annually paid without distress, we may conclude that this State can contribute one million of dollars annually towards supporting the federal army, paying the federal debt, building a federal navy, or opening roads, clearing rivers, forming safe ports, and other useful works.

To this estimate of our abilities, let me add a word as to the application of them. If, when cleared of the present contest, and of the debts with which that will charge us, we come to measure force hereafter with any European power. Such events are devoutly to be deprecated. Young as we are, and with such a country before us to fill with people and with happiness, we should point in that direction the whole generative force of nature, wasting none of it in efforts of mutual destruction. It should be our endeavor to cultivate the peace and friendship of every nation, even of that which has injured us most, when we shall have carried our point against her. Our interest will be to

throw open the doors of commerce, and to knock off all its shackles, giving perfect freedom to all persons for the vent of whatever they may chose to bring into our ports, and asking the same in theirs. Never was so much false arithmetic employed on any subject, as that which has been employed to persuade nations that it is their interest to go to war. Were the money which it has cost to gain, at the close of a long war, a little town, or a little territory, the right to cut wood here, or to catch fish there, expended in improving what they already possess, in making roads, opening rivers, building ports, improving the arts, and finding employment for their idle poor, it would render them much stronger, much wealthier and happier. This I hope will be our wisdom. And, perhaps, to remove as much as possible the occasions of making war, it might be better for us to abandon the ocean altogether, that being the element whereon we shall be principally exposed to jostle with other nations; to leave to others to bring what we shall want, and to carry what we can spare. This would make us invulnerable to Europe, by offering none of our property to their prize, and would turn all our citizens to the cultivation of the earth; and, I repeat it again, cultivators of the earth are the most virtuous and independent citizens. It might be time enough to seek employment for them at sea, when the land no longer offers it. But the actual habits of our countrymen attach them to commerce. They will exercise it for themselves. Wars then must sometimes be our lot; and all the wise can do, will be to avoid that half of them which would be produced by our own follies and our own acts of injustice; and to make for the other half the best preparations we can. Of what nature should these be? A land army would be useless for offence, and not the best nor safest instrument of defence. For either of these purposes, the sea is the field on which we should meet an European enemy. On that element it is necessary we should possess some power. To aim at such a navy as the greater nations of Europe possess, would be a foolish and wicked waste of the energies of our countrymen. It would be to pull on our own heads that load of military expense which makes the European laborer go supperless to bed, and

moistens his bread with the sweat of his brows. It will be enough if we enable ourselves to prevent insults from those nations of Europe which are weak on the sea, because circumstances exist, which render even the stronger ones weak as to us. Providence has placed their richest and most defenceless possessions at our door; has obliged their most precious commerce to pass, as it were, in review before us. To protect this, or to assail, a small part only of their naval force will ever be risked across the Atlantic. The dangers to which the elements expose them here are too well known, and the greater dangers to which they would be exposed at home were any general calamity to involve their whole fleet. They can attack us by detachment only; and it will suffice to make ourselves equal to what they may detach. Even a smaller force than they may detach will be rendered equal or superior by the quickness with which any check may be repaired with us, while losses with them will be irreparable till too late. A small naval force then is sufficient for us, and a small one is necessary. What this should be, I will not undertake to say. I will only say, it should by no means be so great as we are able to make it. Suppose the million of dollars, or three hundred thousand pounds, which Virginia could annually spare without distress, to be applied to the creating a navy. A single year's contribution would build, equip, man, and send to sea a force which should carry three hundred guns. The rest of the confederacy, exerting themselves in the same proportion, would equip in the same time fifteen hundred guns more. So that one year's contributions would set up a navy of eighteen hundred guns. The British ships of the line average seventy-six guns; their frigates thirty-eight. Eighteen hundred guns then would form a fleet of thirty ships, eighteen of which might be of the line, and twelve frigates. Allowing eight men, the British average, for every gun, their annual expense, including subsistence, clothing, pay, and ordinary repairs, would be about $1,280 for every gun, or $2,304,000 for the whole. I state this only as one year's possible exertion, without deciding whether more or less than a year's exertion should be thus applied.

The value of our lands and slaves, taken conjunctly, doubles in about twenty years. This arises from the multiplication of our slaves, from the extension of culture, and increased demand for lands. The amount of what may be raised will of course rise in the same proportion.

QUERY XXIII.

The histories of the State, the memorials published in its name in the time of its being a colony, and the pamphlets relating to its interior or exterior affairs present or ancient ?

Captain Smith, who next to Sir Walter Raleigh may be considered as the founder of our colony, has written its history, from the first adventures to it, till the year 1624. He was a member of the council, and afterwards president of the colony ; and to his efforts principally may be ascribed its support against the opposition of the natives. He was honest, sensible, and well informed ; but his style is barbarous and uncouth. His history, however, is almost the only source from which we derive any knowledge of the infancy of our State.

The reverend William Stith, a native of Virginia, and president of its college, has also written the history of the same period, in a large octavo volume of small print. He was a man of classical learning, and very exact, but of no taste in style. He is inelegant, therefore, and his details often too minute to be tolerable, even to a native of the country, whose history he writes.

Beverley, a native also, has run into the other extreme, he has comprised our history from the first propositions of Sir Walter Raleigh to the year 1700, in the hundredth part of the space which Stith employs for the fourth part of the period.

Sir Walter Keith has taken it up at its earliest period, and continued it to the year 1725. He is agreeable enough in style, and passes over events of little importance. Of course he is short and would be preferred by a foreigner.

During the regal government, some contest arose on the exaction of an illegal fee by governor Dinwiddie, and doubtless there were others on other occasions not at present recollected. It is supposed that these are not sufficiently interesting to a foreigner to merit a detail.

The petition of the council and burgesses of Virginia to the king, their memorials to the lords, and remonstrance to the commons in the year 1764, began the present contest; and these having proved ineffectual to prevent the passage of the stamp-act, the resolutions of the house of burgesses of 1765 were passed declaring the independence of the people of Virginia of the parliament of Great Britain, in matters of taxation. From that time till the declaration of independence by Congress in 1776, their journals are filled with assertions of the public rights.

The pamphets published in this State on the controverted question, were:

1766, An Inquiry into the rights of the British Colonies, by Richard Bland.

1769, The Monitor's Letters, by Dr. Arthur Lee.

1774, A summary View of the rights of British America.*

1774, Considerations, &c., by Robert Carter Nicholas.

Since the declaration of independence this State has had no controversy with any other, except with that of Pennsylvania, on their common boundary. Some papers on this subject passed between the executive and legislative bodies of the two States, the result of which was a happy accommodation of their rights.

To this account of our historians, memorials, and pamphlets, it may not be unuseful to add a chronological catalogue of American state-papers, as far as I have been able to collect their titles. It is far from being either complete or correct. Where the title alone, and not the paper itself, has come under my observation, I cannot answer for the exactness of the date. Sometimes I have not been able to find any date at all, and sometimes have not been satisfied that such a paper exists. An extensive collection of papers of this description has been for some time in a course of preparation by a gentleman† fully equal to the task,

* By the author of these notes. † Mr. Hazard.

and from whom, therefore, we may hope ere long to receive it. In the meantime accept this as the result of my labors, and as closing the tedious detail which you have so undesignedly drawn upon yourself.

Pro Johanne Caboto et filiis suis super terra incognita investiganda. 12 Ry. 595. 3. Hakl. 4. 2. Mem. A. 409.	1496, Mar. 5. 11. H. 7.
Billa signata anno 13. Henrici septimi. 3. Hakluyt's voiages 5.	1498, Feb. 3. 13. H. 7.
De potestatibus ad terras incognitas investigandum. 13. Rymer. 37.	1502, Dec. 19. 18. H. 7.
Commission de François I. à Jacques Catier pour l'establissement du Canada. L'Escarbot. 397. 2. Mem. Am. 416.	1540, Oct. 17.
An act against the exaction of money, or any other thing, by any officer for license to traffique into Iseland and New-foundland, made in An. 2. Edwardi sexti. 3. Hakl. 131.	1548, 2. E. 6.
The letters-patent granted by her Majestie to Sir Humphrey Gilbert, knight, for the inhabiting and planting of our people in America. 3. Hakl. 135.	1578, June 11. 20. El.
Letetrs-patent of Queen Elizabeth to Adrian Gilbert and others, to discover the northwest passage to China. 3. Hakl. 96.	1583, Feb. 6.
The letters-patent granted by the Queen's majestie to M. Walter Raleigh, now knight, for the discovering and planting of new lands and countries, to continue the space of six years and no more. 3. Hakl. 243.	1584, Mar. 25. 26 El.
An assignment by Sir Walter Raleigh for continuing the action of inhabiting and planting his people in Virginia. Hakl. 1st. ed. publ. in 1589. p. 815.	Mar. 7. 31. El.
Lettres de Lieutenant General de l'Acadie et pays circonvoisins pour le Sieur de Monts. L'Escarbot. 417.	1603, Nov. 8.
Letters-patent to Sir Thomas Gates, Sir George Somers and others of America. Stith. Apend. No. 1.	1606, Apr. 10. 4. Jac. 1.
An ordinance and constitution enlarging the council of the two colonies in Virginia and America, and augmenting their authority, M. S.	1607, Mar. 9. 4. Jac. 1.
The second charter to the treasurer and company for Virginia, erecting them into a body politick. Stith. Ap. 2.	1609, May 23. 7. Jac. 1.
Letters-patents to the E. of Northampton, granting part of the island of Newfoundland. 1. Harris. 861.	1610, April 10. Jac. 1.
A third charter to the treasurer and company for Virginia. Stith. Ap. 3.	1611, Mar. 12. 9. Jac. 1.
A commission to Sir Walter Raleigh. Qu.	1617. Jac. 1.
Commissio specialis concernens le garbling herbæ Nocotianæ. 17. Rym. 190.	1620. Apr. 7. 18. Jac. 1.
A proclamation for restraint of the disordered trading of tobacco. 17. Rym. 233.	1620. June 29. 18. Jac. 1.
A grant of New-England to the council of Plymouth.	1620. Nov. 3. Jac. 1.

1621, July 24. Jac. 1. An ordinance and constitution of the treasurer, council and company in England, for a council of state and general assembly in Virginia. Stith. Ap. 4.

1621, Sep. 10. 20 Jac. 1 A grant of Nova Scotia to Sir William Alexander. 2. Mem. de l'Amerique. 193.

1622, Nov. 6. 20 Jac. 1. A proclamation prohibiting interloping and disorderly trading to New England in America. 17. Rym. 416.

1623, May 9. 21 Jac. 1. De commissione speciali Willelmo Jones militi directa. 17. Rym. 490.

1623. A grant to Sir Edmund Ployden, of New Albion. Mentioned in Smith's examination. 82.

1624, July 15. 22. Jac. 1, De commissione Henrico vicecomiti Mandevill et aliis. 17. Rym. 609.

1624, Aug. 26. 22 Jac. 1. De commissione speciali concernenti gubernationem in Virginia. 17. Rym. 618.

1624, Sep. 29. 22 Jac. 1. A proclamation concerning tobacco. 17. Rym. 621.

1624, Nov. 9. 22 Jac. 1. De concessione demiss, Edwardo Ditchfield et aliis. 17. Rym. 633.

1625, Mar. 2. 22 Jac. 1. A proclamation for the utter prohibiting the importation and use of all tobacco which is not of the proper growth of the colony of Virginia and the Somer islands, or one of them. 17. Rym. 668.

1625, Mar. 4. 1 Car. 1. De commissione directa Georgio Yardeley militi et aliis. 18. Rym. 311.

1625, Apr. 9. 1 Car. 1. Proclamatio de herba Nicotianâ. 18. Rym. 19.

1625, May 13. 1 Car. 1. A proclamation for settlinge the plantation of Virginia. 18. Rym. 72.

1625, July 12. A grant of the soil, barony, and domains of Nova Scotia to Sir Wm. Alexander of Minstrie. 2. Mem. Am. 226.

1626, Jan. 31. 2 Car. 1. Commissio directa a Johanni Wolstenholme militi et aliis. 18. Rym. 831.

1626, Feb. 17. 2 Car. 1. A proclamation touching tobacco. Rym. 848.

1627, Mar. 19. qu? 2 Car. 1. A grant of Massachusetts bay by the council of Plymouth to Sir Henry Roswell and others.

1627, Mar. 26. 3 Car. 1. De concessione commissionis specialis proconcilio in Virginia. 18. Rym. 980.

1627, Mar. 30. 3 Car. 1. De proclamatione de signatione de tobacco. 18. Rym. 886.

1627, Aug. 9. 3 Car. 1. De proclamatione pro ordinatione de tobacco. 18. Rym. 920.

1628, Mar. 4. 3 Car. 1. A confirmation of the grant of Massachusetts bay by the crown.

1629, Aug. 19. The capitulation of Quebec. Champlain pert. 2. 216. 2. Mem. Am. 489.

1630, Jan. 6. 5 Car. 1. A proclamation concerning tobacco. 19. Rym. 235.

1630, April 30. Conveyance of Nova Scotia (Port-royal excepted) by Sir William Alexander to Sir Claude St. Etienne Lord of la Tour and of Uarre and to his son Sir Charles de St. Etienne Lord of St. Denniscourt, on condition that they continue subjects to the king of Scotland under the great seal of Scotland.

A proclamation forbidding the disorderly trading with the savages in New England in America, especially the furnishing the natives in those and other parts of America by the English with weapons and habiliments of warre. 19. Ry. 210. 3. Rushw. 82.	1630-31, Nov. 24. 6 Car. 1.
A proclamation prohibiting the selling arms, &c. to the savages in America. Mentioned 3. Rushw. 75.	1630, Dec. 5. 6 Car. 1.
A grant of Connecticut by the council of Plymouth to the E. of Warwick.	1630, Car. 1.
A confirmation by the crown of the grant of Connecticut [said to be in the petty-bag office in England.]	1630, Car. 1.
A conveiance of Connecticut by the E. of Warwick to Lord Say, and Seal, and others. Smith's examination, Appendix No. 1.	1631, Mar. 19. 6 Car. 1.
A special commission to Edward, Earle of Dorsett, and others, for the better plantation of the colony of Virginia. 19. Ry. 301.	1631, June 27. 7 Car. 1.
Litere continentes promissionem regis ad tradenum castrum et habitationem de Kebec in Canada ad regem Francorum. 19. Ry. 303.	1632, June 29. 7 Car. 1.
Traité entre le roy Louis XIII. et Charles roi d'Angleterre pour la restitution de la nouvelle France, la Cadie et Canada et des navires et merchandises pris de part et d'autre. Fait a St. Germain. 19. Ry. 361. 2. Mem. Am. 5.	1632, Mar. 29. 8 Car. 1.
A grant of Maryland to Cæcilius Calvert, baron of Baltimore in Ireland.	1632, June 20. 8 Car. 1.
A petition of the planters of Virginia against the grant to lord Baltimore.	1633, July 3, 9 Car. 1.
Order of council upon the dispute between the Virginia planters and lord Baltimore, Votes of repres. Pennsylvania. V.	1633, July 3.
A proclamation to prevent abuses growing by the unordered retailing of tobacco. Mentioned 3. Rushw. 191,	1633, Aug. 13. 9 Car. 1.
A special commission to Thomas Young to search, discover and find out what ports are not yet inhabited in Virginia and America and other parts thereunto adjoining. 19. Ry. 472.	1633, Sept. 23. 9 Car. 1.
A proclamation for preventing of the abuses growing by the unordered retailing of tobacco. 19. Ry. 474.	1633, Oct. 13. 9 Car. 1.
A proclamation restraining the abusive venting of tobacco. 19. Rym. 522.	1633, Mar. 13. Cer. 1.
A proclamation concerning the landing of tobacco, and also forbidding the planting thereof in the king's dominions. 19. Ry. 553.	1634, May 19. 10 Car. 1.
A commission to the Archbishop of Canterbury and 11 others, for governing the American colonies.	1634, Car. 1.
A commission concerning tobacco. M. S.	1634, June 19. 10 Car. 1.
A commission from Lord Say, and Seal, and others, to John Winthrop to be governor of Connecticut. Smith's App.	1635, July 18. 11 Car. 1.
A grant to Duke Hamilton.	1635, Car. 1.

1636, Apr. 2. 12 Car. 1. De commissione speciali Johanni Harvey militi to pro meliori regemine coloniae in Virginia. 20. Ry. 3.

1637, Mar. 14. Car. 1. A proclamation concerning tobacco. Title in 3. Rush. 617.

1636-7, Mar. 16. 12 Car. 1. De commissione speciali Georgio domino Goring et aliis concessâ concernente venditionem de tobacco absque licentiâ regiâ. 20. Ry. 116.

1637, Apr. 30. 13 Car. 1. A proclamation against disorderly transporting his Majesty's subjects to the plantations within the parts of America. 20. Ry. 143. 3. Rush. 409.

1637, May 1. 13 Car. 1. An order of the privy council to stay 8 ships now in the Thames from going to New England. 3. Rush. 409.

1637, Car. 1. A warrant of the Lord Admiral to stop unconformable ministers from going beyond the sea. 3. Rush. 410.

1638, Apr. 4. Car. 1. Order of council upon Claiborne's petition against Lord Baltimore. Votes of representatives of Pennsylvania. vi.

1638, Apr. 6. 14 Car. 1. An order of the king and council that the attorney general draw up a proclamation to prohibit transportation of passengers to New England without license. 3. Rush. 718.

1638, May 1. 14 Car. 1. A proclamation to restrain the transporting of passengers and provisions to New England without license. 20. Ry. 223.

1639, Mar. 25. Car. 1. A proclamation concerning tobacco. Title 4. Rush. 1060.

1639, Aug. 19. 15 Car. 1. A proclamation declaring his majesty's pleasure to continue his commission and letters patents for licensing retailers of tobacco. 20. Ry. 348.

1639, Dec. 16. 15 Car. 1. De commissione speciali Henrico Ashton armigero ét aliis ad amovendum Henricum Hawley gubernatorem de Barbadoes. 20. Rym. 357.

1639, Car. 1. A proclamation concerning retailers of tobacco. 4. Rush. 966.

1641, Aug. 9. 17 Car. 1. De constitutione gubernatoris et concilii pro Virginia. 20. Ry. 484.

1643, Car. 1. Articles of union and confederacy entered into by Massachusetts, Plymouth, Connecticut and New-haven. 1. Neale. 223.

1644, Car. 1. Deed from George Fenwick to the old Connecticut jurisdiction.

An ordinance of the lords and commons assembled in parliament, for exempting from custom and imposition all commodities exported for, or imported from New England, which has been very prosperous and without any public charge to this State, and is likely to prove very happy for the propagation of the gospel in those parts. Tit. in Amer. library 90. 5. No date. But seems by the neighbouring articles to have been in 1644.

1644, June 20. Car. 2. An act for charging of tobacco brought from New England with custom and excise. Title in American library. 99. 8.

1644, Aug. 1. Car. 2. An act for the advancing and regulating the trade of this commonwealth. Tit. in Amer. libr. 99. 9.

Sep. 18. 1 Car. 2. Grant of the Northern neck of Virginia to Lord Hopton, Lord Jermyn, Lord Culpepper, Sir John Berkley, Sir William Moreton, Sir Dudley Wyatt, and Thomas Culpepper.

An act prohibiting trade with the Barbadoes, Virginia, Bermudas and Antego Scobell's Acts. 1027. — 1650, Oct. 3. 2 Car. 2.

A declaration of Lord Willoughby, governor of Barbadoes, and of his council, against an act of parliament of 3d of October, 1650. 4. Polit. register. 2. cited from 4 Neal. hist. of the Puritans. App. No. 12 but not there. — 1650, Car. 2.

A final settlement of boundaries between the Dutch New Netherlands and Connecticut. — 1650, Car. 2.

Instructions for Captain Robert Dennis, Mr. Richard Bennet, Mr. Thomas Stagge, and Captain William Claibourn, appointed commissioners for the reducing of Virginia and the inhabitants thereof to their due obedience to the commonwealth of England. 1 Thurloe's state papers, 197. — 1651, Sept. 26. 3 Car. 2.

An act for increase of shipping and encouragement of the navigation of this nation. Scobell's acts, 1449. — 1651, Oct. 9. 8 Car. 2.

Articles agreed on and concluded at James citie in Virginia for the surrendering and settling of that plantation under the obedience and government of the commonwealth of England, by the commissioners of the council of state, by authoritie of the parliament of England, and by the grand assembly of the governor, council, and burgesse of that state. M. S. [Ante. p. 206.] — 1651-2, Mar. 12. 4 Car. 2.

An act of indempnitie made at the surrender of the country [of Virginia.] [Ante p. 206.] — 1651-2, Mar. 12. 4 Car. 1.

Capitulation de Port Royal. Mem. Am. 507. — 1654, Aug. 16.

A proclamation of the protector relating to Jamaica. 3 Thurl. 75. — 1655, Car. 2.

The protector to the commissioners of Maryland. A letter. 4 Thurl. 55. — 1655, Sep. 26. 7 Car. 2.

An instrument made at the council of Jamaica, Oct. 8, 1655, for the better carrying on of affairs there. 4 Thurl. 17. — 1655, Oct. 8. 7 Car. 2.

Treaty of Westminster between France and England. 6. corps diplom. part 2. p. 121. 2 Mem. Am. 10. — 1655, Nov. 3.

The assembly at Barbadoes to the protector. 4 Thurl. 651. — 1656, Mar. 27. 8 Car. 2.

A grant by Cromwell to Sir Charles de Saint Etienne, a baron of Scotland, Crowne and Temple. A French translation of it. 2 Mem. Am. 511. — 1656, Aug. 9.

A paper concerning the advancement of trade, 5 Thurl. 80. — 1656, Car. 2.

A brief narration of the English rights to the Northern parts of America. 5 Thurl. 81. — 1656. Car. 2.

Mr. R. Bennet and Mr. S. Matthew to Secretary Thurlow. 5 Thurl. 482. — 1656, Oct. 10. 8 Car. 2.

Objections against the Lord Baltimore's patent, and reasons why the government of Maryland should not be put into his hands. 5 Thurl. 482. — 1656, Oct. 10. 8 Car. 2.

A paper relating to Maryland. 5 Thurl. 483. — 1656, Oct. 10. 8 Car. 2.

A breviet of the proceedings of the lord Baltimore and his officers and compliers in Maryland, against the authority of the — 1656, Oct. 10. 8 Car. 2.

parliament of the commonwealth of England and against his highness the lord protector's authority, laws and government 5 Thurl 486.

1656, Oct. 15. 8 Car. 2. The assembly of Virginia to secretary Thurlow. 5 Thurl. 497.

1657, Apr. 4. 9 Car. 2. The governor of Barbadoes to the protector. 6 Thurl. 69.

1661, Car. 2. Petition of the general court at Hartford upon Connecticut for charter. Smith's exam. App. 4.

1662, Apr. 23. 14 Car. 2. Charter of the colony of Connecticut. Smith's exam. App. 6.

1662-2, Mar. 24. Apr. 4. 15 C. 2. The first charter granted by Charles II. to the proprietaries of Carolina, to wit, to the Earl of Clarendon, Duke of Albemarle, Lord Craven, Lord Berkeley, Lord Ashley, Sir George Carteret, Sir William Berkeley, and Sir John Colleton. 4 Mem. Am. 554.

1664, Feb. 10. The concessions and agreement of the lords proprietors of the province of New Cæsarea, or New Jersey, to and with all and every of the adventurers and all such as shall settle or plant there. Smith's New Jersey. App. 1.

1664, Mar. 12. 20 Car. 2. A grant of the colony of New York to the Duke of York.

1664, Apr. 26. 16 Car. 2. A commission to Colonel Nichols and others to settle disputes in New England. Hutch. Hist. Mass. Bay, App. 537.

1664, Apr. 26. The commission to Sir Robert Carre and others to put the Duke of York in possession of New York, New Jersey, and all other lands thereunto appertaining.

Sir Robert Carre and others proclamation to the inhabitants of New York, New Jersey, &c. Smith's N. J. 36.

1664, June 23. 24. 16 Car. 2. Deeds of lease and release of New Jersey by the Duke of York to Lord Berkeley and Sir George Carteret.

A conveiance of the Delaware counties to William Penn.

1664, Aug. 19-29, 20-30, 24. Aug. 25. Sept. 4. Letters between Stuyvesant and Colonel Nichols on the English right. Smith's N. J. 37—42.

1664, Aug. 27. Treaty between the English and Dutch for the surrender of the New Netherlands. Sm. N. J. 42.

Sept. 3. Nicoll's commission to Sir. Robert Carre to reduce the Dutch on Delaware bay. Sm. N. J. 47.

Instructions to Sir Robert Carre for reducing of Delaware bay and settling the people there under his majesty's obedience. Sm. N. J. 47.

1664, Oct. 1. Articles of capitulation between Sir Robert Carre and the Dutch and Swedes on Delaware bay and Delaware river. Sm. N. J. 49.

1664, Dec. 1. 16 Car. 2. The determination of the commissioners of the boundary between the Duke of York and Connecticut. Sm. Ex. Ap. 9.

1664. The New Haven case. Smith's Ex. Ap. 20.

1665, June 13. 24. 17 Car. 2. The second charter granted by Charles II. to the same proprietors of Carolina. 4. Mem. Am. 586.

1666, Jan. 26. Declaration de guerre par la France contre l'Angleterre. 3 Mem. Am. 123.

Declaration of war by the king of England against the king of France.	1666, Feb. 9. 17 Car. 2.
The treaty of peace between France and England made at Breda. 7 Corps, Dipl. part 1. p. 51 2. Mem. Am. 32.	1667, July 31.
The treaty of peace and alliance between England and the United Provinces made at Breda. 7. Cor. Dip. p. 1. d. 44. 2. Mem. Am. 40.	1667, July 31.
Acte de la cession de l'Acadie au roi de France. 2. Mem. Am. 40.	1667-8, Feb. 17.
Directions from the governor and council of New York for a better settlement of the government on Delaware. Sm. N. J. 51.	1668, April 21.
Lovelace's order for customs at the Hoarkills. Sm. N. J. 55.	1668.
A confirmation of the grant of the northern neck of Virginia to the Earl of St. Albans, Lord Berkeley, Sir William Moreton and John Tretheway.	16- May 8. 21 Car. 2.
Incorporation of the town of Newcastle or Amstell.	1672,
A demise of the colony of Virginia to the Earl of Arlington and Lord Culpepper for 31 years. M. S.	1673, Feb. 25. 25 Car. 2.
Treaty at London between king Charles II. and the Dutch. Article VI.	1673-4.
Remonstrance against the two grants of Charles II. of Northern and Southern Virginia. Ment^{d}. Beverley 65.	
Sir George Carteret's instructions to Governor Carteret.	1674, July 13.
Governor Andros's proclamation on taking possession of Newcastle for the Duke of York. Sm. N. J. 78.	1674, Nov. 9.
A proclamation for prohibiting the importation of commodities of Europe into any of his majesty's plantations in Africa, Asia, or America, which were not laden in England; and for putting all other laws relating to the trade of the plantations in effectual execution.	1675, Oct. 1 27 Car. 2.
The concessions and agreements of the proprietors, freeholders and inhabitants of the province of West New Jersey in America. Sm. N. J. App. 2.	1676, Mai. 3.
A deed quintipartite for the division of New Jersey.	1676, July 1.
Letter from the proprietors of New Jersey to Richard Hartshorne. Sm. N. J. 80.	1676, Aug. 18
Proprietors instructions to James Wasse and Richard Hartshorne. Sm. N. J. 83.	
The charter of king Charles II. to his subjects of Virginia. M.S.	1676, Oct. 10. 28 Car. 2.
Cautionary epistle from the trustees of Byllinge's part of New Jersey. Sm. N. J. 84.	1676.
Indian deed for the lands between Rankokas creek and Timber creek, in New Jersey.	1677, Sept. 10.
Indian deed for lands from Oldman's creek to Timber creek, in New Jersey.	1677, Sept. 27.
Indian deed for the lands from Rankokos creek to Assunpink creek, in New Jersey.	1677, Oct. 10.

1678, Dec. 5. The will of Sir George Carteret, sole proprieter of East Jersey ordering the same to be sold.

1680, Feb. 16. An order of the king in council for the better encouragement of all his majesty's subjects in their trade to his majesty's plantations, and for the better information of all his majesty's loving subjects in these matters—Lond. Gaz. No. 1596. Title in Amer. library. 134. 6.

1680. Arguments against the customs demanded in New West Jersey by the governor of New York, addressed to the Duke's commissioners. Sm. N. J. 117.

1680, June 14. 23. 25. Oct. 16. Nov. 4. 8. 11. 18. 20. 23. Dec. 16. 1680-1, Jan. 15. 22. Feb. 24. Extracts of proceedings of the committee of trade and plantations; copies of letters, reports, &c., between the board of trade, Mr. Penn, Lord Baltimore and Sir John Werden, in the behalf of the Duke of York and the settlement of the Pennsylvania boundaries by the L. C. J. North. Votes of Repr. Pennsyl. vii.–xiii.

1631, Mar. 4. Car. 2. A grant of Pennsylvania to William Penn. Votes of Represen. Pennsyl. xviii.

1681, Apr. 2. The king's declaration to the inhabitants and planters of the province of Pennsylvania. Vo. Repr. Penn. xxiv.

1681, July 11. Certain conditions or concessions agreed upon by William Penn, proprietary and governor of Pennsylvania, and those who are the adventurers and purchasers in the same province. Votes of Rep. Pennsyl. xxiv.

1681, Nov. 9. Fundamental laws of the province of West New Jersey. Sm. N. J. 126.

1681-2, Jan. 14. The methods of the commissioners for settling and regulation of lands in New Jersey. Sm. N. J. 130.

1681-2, F. 1. 2. Indentures of lease and release by the executors of Sir George Carteret to William Penn and 11 others, conveying East Jersey.

1682, Mar. 14. The Duke of York's fresh grant of East New Jersey to the 24 proprietors.

1682, Apr. 25. The frame of the government of the province of Pennsylania, in America. Votes of Repr. Penn. xxvii.

1682, Aug. 21. The Duke of York's deed for Pennsylvania. Vo. Repr. Penn. xxxv.

1682, Aug. 24. The Duke of York's deed for the feoffment of Newcastle and twelve miles circle to William Penn. Vo. Repr. Penn.

1682, Aug. 24. The Duke of York's deed of feoffment of a tract of land 12 miles south from Newcastle to the Whorekills, to William Penn. Vo. Repr. Penn. xxxvii.

1682, Nov. 27. 34 Car. 2. A commission to Thomas Lord Culpepper to be lieutenant and governor-general of Virginia. M. S.

1682, 10th mon. 6th day. An act of union for annexing and uniting of the counties of Newcastle, Jones's and Whorekill's, alias Deal, to the province of Pennsylvania, and of naturalization of all foreigners in the province and counties aforesaid.

An act of settlement. 1682, Dec. 6.

The frame of the government of the province of Pennsylvania and territories thereunto annexed in America. 1683, Apr. 2.

Proceedings of the committee of trade and Plantations in the dispute between Lord Baltimore and Mr. Penn. Vo. R. P. xiii—xviii.

1683, Apr. 17. 27. May 30. June 12. 1684, Feb. 12. July 2, 16, 23, Sept. 30. Dec. 9. 1685, Mar. 17. Aug. 18. 26. Sept. 2. Oct. 8, 17, 31. Nov. 7.

A commission by the proprietors of East New Jersey to Robert Barclay to be governor. Sm. N. J. 166. 1683, July 17.

An order of council for issuing a quo warranto against the charter of the colony of the Massachusetts bay in New England, with his majesty's declaration that in case the said corporation of Massachusetts bay shall before prosecution had upon the same quo warranto make a full submission and entire resignation to his royal pleasure, he will then regulate their charter in such a manner as shall be for his service and the good of that colony. Title in American library. 139, 6. 1683, July 26. 35 Car. 2.

A commission to Lord Howard of Effingham to be lieutenant and governor general of Virginia. M. S. 1683, Sept. 28. 35 Car. 2.

The humble address of the chief governor, council and representatives of the island of Nevis, in the West Indies, presented to his majesty by Colonel Netheway and Captain Jefferson, at Windsor, May 3, 1684. Title in Amer. libr. 142. 3. cites Lond. Gaz. No. 1927. 1684, May 3.

A treaty with the Indians at Albany. 1684, Aug. 2.

A treaty of neutrality for America between France and England. 7 Corps Dipl. part 2, p. 44. 2. Mem. Am. 40. 1686, Nov. 16.

By the king, a proclamation for the more effectual reducing and suppressing of pirates and privateers in America, as well on the sea as on the land in great numbers, committing frequent robberies and piracies, which hath occasioned a great prejudice and obstruction to trade and commerce, and given a great scandal and disturbance to our government in those parts. Title Amer. libr. 147. 2. cites Lond. Gaz. No. 2315. 1687, Jan. 20.

Constitution of the council of proprietors of West Jersey. Smith's N. Jersey. 199. 1687, Feb. 12.

A confirmation of the grant of the Northern neck of Virginia to Lord Culpepper. 1687, qu. Sept. 27. 4. Jac. 2.

Governor Coxe's declaration to the council of proprietors of West Jersey. Sm. N. J. 190. 1687, Sept. 5.

Provisional treaty of Whitehall concerning America between France and England. 2 Mem. de l'Am. 89. 1687, Dec. 16.

Governor Coxe's narrative relating to the division line, directed to the council of proprietors of West Jersey. Sm. App. No. 4. 1687.

The representation of the council of proprietors of West Jersey to Governor Burnet. Smith. App. No. 5. 1687.

The remonstrance and petition of the inhabitants of East New Jersey to the king. Sm. App. No. 8.

The memorial of the proprietors of East New Jersey to the Lords of trade. Sm. App. No. 9.

1778, Sept. 5. Agreement of the line of partition between East and West New Jersey. Smith's N. J. 196.

1691. Conveyance of the government of West Jersey and territories, by Dr. Coxe, to the West Jersey society.

1691, Oct. 7. A charter granted by King William and Queen Mary to the inhabitants of the province of Massachusetts bay, in New England. 2 Mem. de l'Am. 593.

1696, Nov. 7. The frame of government of the province of Pennsylvania and the territories thereunto belonging, passed by Gov. Markham. Nov. 7, 1696.

1697, Sept. 20. The treaty of peace between France and England, made at Ryswick. 7 Corps Dipl. part 2. p. 399. 2 Mem. Am. 89.

1699, July 5. The opinion and answer of the Lords of trade to the memorial of the proprietors of East N. Jersey. Sm. App. No. 10.

1700, Jan. 15. The memorial of the proprietors of East New Jersey to the Lords of trade. Sm. App. No. 11.

The petition of the proprietors of East and West New Jersey to the Lords justices of England. Sm. App. No. 12.

1700, W. 3. A confirmation of the boundary between the colonies of New York and Connecticut, by the crown.

1701, Aug. 12. The memorial of the proprietors of East and West New Jersey to the king. Sm. App. No. 14.

1701, Oct. 2. Representation of the Lords of trade to the Lords justices. Sm. App. No. 18.

1701. A treaty with the Indians.

1701-2, Jan. 6. Report of Lords of trade to king William, of draughts of a commission and instructions for a governor of N. Jersey. Sm. N. J. 262.

1702, Apr. 15. Surrender from the proprietors of E. and W. N. Jersey, of their pretended right of government to her majesty Queen Anne. Sm. N. J. 211.

1702, Apr. 17. The Queen's acceptance of the surrender of government of East and West Jersey. Sm. N. J. 219.

1702, Nov. 16. Instructions to lord Cornbury. Sm. N. J. 230.

1702, Dec. 5. A commission from Queen Anne to Lord Cornbury, to be captain general and governor in chief of New Jersey. Sm. N. J. 220.

1703, June 27 Recognition by the council of proprietors of the true boundary of the deeds of Sept. 10, and Oct. 10, 1677, (New Jersey.) Sm. N. J. 96.

1703. Indian deeds for the lands above the falls of the Delaware in West Jersey.

Indian deed for the lands at the head of Rankokus river, in West Jersey.

A proclamation by Queen Anne, for settling and ascertaining the current rates of foreign coins in America. Sm. N. J. 281.	1704, June 18.
Additional instructions to Lord Cornbury. Sm. N. S. 235.	1705, May 3.
Additional instructions to Lord Cornbury. Sm. N. J. 258.	1707, May 3.
Additional instructions to Lord Cornbury. Sm. N. J. 259.	1707, Nov. 20.
An answer by the council of proprietors for the western division of N. Jersey, to questions proposed to them by Lord Cornbury. Sm. N. J. 285.	1707.
Instructions to Colonel Vetch in his negotiations with the governors of America. Sm. N. J. 364.	1708-9, Feb. 28.
Instructions to the governor of New Jersey and New York. Sm. J. 361.	1708-9, Feb. 28.
Earl of Dartmouth's letter to governor Hunter.	1710, Aug.
Premiers propositions de la France. 6. Lamberty, 669, 2 Mem. Am. 341.	1711, Apr. 22.
Réponses de la France aux demandes préliminaries de la Grande Bretagne. 6 Lamb. 681. 2 Mem. Amer. 344.	1711, Oct. 8.
Demandes préliminaries plus particulieres de la Grande-Bretagne, avec les réponses. 2 Mem. de l'Am. 346.	1711, Sept. 27. — Oct. 9.
L'acceptation de la part de la Grande-Bretagne. 2 Mem. Am. 356.	1711, Sept. 27. — Oct. 8.
The Queen's instructions to the Bishop of Bristol and Earl of Stafford, her plenipotentiaries, to treat for a general peace. 6 Lamberty, 744. 2. Mem. Am. 358.	1711, Dec. 23.
A memorial of Mr. St. John to the Marquis de Torci, with regard to North America, to commerce, and to the suspension of arms. 7. Recueil de Lamberty 161, 2 Mem. de l'Amer. 376.	1712, May 24. — June 10.
Réponse du roi de France au memoire de Londres. 7. Lamberty, p. 163. 2. Mem. Am. 380.	1712, June 10.
Traité pour une suspension d'armes entre Louis XIV. roi de France, and Anne, reign de la Grande-Bretagne, fait à Paris. 8. Corps Diplom. part 1. p. 308. 2. Mem. d'Am. 104.	1712, Aug. 19.
Offers of France to England, demands of England, and the answers of France. 7. Rec. de Lamb. 461. 2 Mem. Am. 390.	1712, Sept. 10.
Traité de paix et d'amitié entre Louis XIV. roi de France, et Anne, reine de la Grande-Bretagne, fait à Utrecht. 15 Corps Diplomatique de Dumont, 339. id. Latin. 2 Actes et memoires de la pais d'Utrecht, 457. id. Lat. Fr. 2. Mem. Am. 113.	1713, Mar. 31. — Apr. 11.
Traité do navigation et de commerce entre Louis XIV. roi de France, et Anne, reine de la Grande-Bretagne. Fait à Utrecht. 8 Corps Dipl. part 1. p. 345. 2 Mem. de l'Am. 137.	1713, Mar. 31. — April 11.
A treaty with the Indians.	1726.
The petition of the representatives of the province of New Jersey, to have a distinct governor. Sm. N. J. 421.	1728. Jan.
Deed of release by the government of Connecticut to that of New York.	1732, G. 2.
The charter granted by George II. for Georgia. 4. Mem de l'Am. 617.	1732, June 9. 20. 5 Geo. 2.

1733.	Petition of Lord Fairfax, that a commission might issue for running and marking the dividing line between his district and the province of Virginia.
1733, Nov. 29.	Order of the king in council for commissioners to survey and settle the said dividing line between the proprietary and royal territory.
1736, Aug. 5.	Report of the Lords of trade relating to the separating the government of the province of New Jersey from New York. Sm. N. J. 423.
1737, Aug. 10.	Survey and report of the commissioners appointed on the part of the crown to settle the line between the crown and Lord Fairfax.
1737, Aug. 11.	Survey and report of the commissioners appointed on the part of Lord Fairfax to settle the line between the crown and him.
1738, Dec. 21.	Order of reference of the surveys between the crown and Lord Fairfax to the council for plantation affairs.
1744, June.	Treaty with the Indians of the six nations at Lancaster.
1745, Apr. 6.	Report of the council for plantation affairs, fixing the head springs of Rappahanoc and Potomac, and a commission to extend the line.
1745, Apr. 11.	Order of the king in council confirming the said report of the council for plantation affairs.
1748, Apr. 30.	Articles préliminaries pour parvenir à la paix, signés à Aix-la-Chapelle entre les ministres de France, de la Grande-Bretagne, et des Provinces-Unies des Pays-Bas. 2 Mem. de l'Am. 159.
1748, May 21.	Declaration des ministres de France, de la Grande-Bretagne, et des Provinces-Unies des Pays-Bas, pour rectifier les articles I. et II. des préliminaries. 2. Mem. Am. 165.
1748, Oct. 7–18. 22. G. 2.	The general and definitive treaty of peace concluded at Aix-la-Chapelle. Lon. Mag. 1748. 503. French 2. Mem. Am. 169.
1754.	A treaty with the Indians.
1758, Aug. 7.	A conference between governor Bernard and Indian nations at Burlington. Sm. N. J. 449.
1758, Oct. 8.	A conference between governor Denny, governor Bernard, and others, and Indian nations at Easton. Sm. N. J. 455.
1759, July 25. 33. G. 2.	The capitulation of Niagara.
175–.	The king's proclamation proming lands to soldiers.
1763, Feb. 10. 3. G. 3.	The definitive treaty concluded at Paris. Lon. Mag. 1763. 149.
1763, Oct. 7. G. 3.	A proclamation for regulating the cessions made by the last treaty of peace. Guth. Geogr. Gram. 623.
1763.	The king's proclamation against settling on any lands on the waters westward of the Alleghany.
1768, Nov. 3.	Deed from the six nations of Indians to William Trent, and others, for lands betwixt the Ohio and Monongahela. View of the title to Indiana. Phil. Steiner and Cist. 1776.
1768, Nov. 5	Deed from the six nations of Indians to the crown for certain lands and settling a boundary. M.S.

APPENDIX.

The preceding sheets have been submitted to my friend Mr. Charles Thompson, Secretary of Congress; he has furnished me with the following observations, which have too much merit not to be communicated:

(A.) p. 262. Besides the three channels of communication mentioned between the western waters and the Atlantic, there are two others to which the Pennsylvanians are turning their attention; one from Presque Isle, on Lake Erie, to Le Bœuf, down the Alleghany to Kiskiminitas, then up the Kiskiminitas, and from thence, by a small portage, to Juniata, which falls into the Susquehanna; the other from Lake Ontario to the East Branch of the Delaware, and down that to Philadelphia. Both these are said to be very practicable; and, considering the enterprising temper of the Pennsylvanians, and particularly of the merchants of Philadelphia, whose object is concentred in promoting the commerce and trade of one city, it is not improbable but one or both of these communications will be opened and improved.

(B.) p. 265. The reflections I was led into on viewing this passage of the Potomac through the Blue Ridge were, that this country must have suffered some violent convulsion, and that the face of it must have been changed from what it probably was some centuries ago; that the broken and ragged faces of the mountain on each side the river; the tremendous rocks, which are left with one end fixed in the precipice, and the other jutting out, and seemingly ready to fall for want of support, the bed of the river for several miles below obstructed, and filled with the loose stones carried from this mound; in short, everything on which you cast your eye evidently demonstrates a disrupture and breach in the mountain, and that, before this happened, what is

now a fruitful vale, was formerly a great lake or collection of water, which possibly might have here formed a mighty cascade, or had its vent to the ocean by the Susquehanna, where the Blue Ridge seems to terminate. Besides this, there are other parts of this country which bear evident traces of a like convulsion. From the best accounts I have been able to obtain, the place where the Delaware now flows through the Kittatinney mountain, which is a continuation of what is called the North Ridge, or mountain, was not its original course, but that it passed through what is now called "the Wind-gap," a place several miles to the westward, and about a hundred feet higher than the present bed of the river. This Wind-gap is about a mile broad, and the stones in it such as seem to have been washed for ages by water running over them. Should this have been the case, there must have been a large lake behind that mountain, and by some uncommon swell in the waters, or by some convulsion of nature, the river must have opened its way through a different part of the mountain, and meeting there with less obstruction, carried away with it the opposing mounds of earth, and deluged the country below with the immense collection of waters to which this new passage gave vent. There are still remaining, and daily discovered, innumerable instances of such a deluge on both sides of the river, after it passed the hills above the falls of Trenton, and reached the Champaign. On the New Jersey side, which is flatter than the Pennsylvania side, all the country below Croswick hills seems to have been overflowed to the distance of from ten to fifteen miles back from the river, and to have acquired a new soil by the earth and clay brought down and mixed with the native sand. The spot on which Philadelphia stands evidently appears to be made ground. The different strata through which they pass in digging to water, the acorns, leaves, and sometimes branches, which are found above twenty feet below the surface, all seem to demonstrate this. I am informed that at Yorktown in Virginia, in the bank of York river, there are different strata of shells and earth, one above another, which seem to point out that the country there has undergone several changes; that the sea has, for a succession of ages,

occupied the place where dry land now appears; and that the ground has been suddenly raised at various periods. What a change would it make in the country below, should the mountains at Niagara, by any accident, be cleft asunder, and a passage suddenly opened to drain off the waters of Erie and the upper lakes! While ruminating on these subjects, I have often been hurried away by fancy, and led to imagine, that what is now the bay of Mexico, was once a champaign country; and that from the point or cape of Florida, there was a continued range of mountains through Cuba, Hispaniola, Porto Rico, Martinique, Guadaloupe, Barbadoes, and Trinidad, till it reached the coast of America, and formed the shores which bounded the ocean, and guarded the country behind; that by some convulsion or shock of nature, the sea had broken through these mounds, and deluged that vast plain, till it reached the foot of the Andes; that being there heaped up by the trade winds, always blowing from one quarter, it had found its way back, as it continues to do, through the Gulf between Florida and Cuba, carrying with it the loom and sand it may have scooped from the country it had occupied, part of which it may have deposited on the shores of North America, and with part formed the banks of Newfoundland. But these are only the visions of fancy.

(3.) p. 283. There is a plant, or weed, called the Jamestown weed,* of a very singular quality. The late Dr. Bond informed me, that he had under his care a patient, a young girl, who had put the seeds of this plant into her eye, which dilated the pupil to such a degree, that she could see in the dark, but in the light was almost blind. The effect that the leaves had when eaten by a ship's crew that arrived at Jamestown, are well known.†

(4.) p. 312. Monsieur Buffon has indeed given an afflicting picture of human nature in his description of the man of America. But sure I am there never was a picture more unlike the original. He grants indeed that his stature is the same as that of the man of Europe. He might have admitted, that the Iro-

* Datura pericarpiis erectis ovatis. Linn.

† An instance of temporary imbecility produced by them is mentioned, Beverl. H. of Virg. b. 2, c. 4.

quois were larger, and the Lenopi, or Delawares, taller than people in Europe generally are. But he says their organs of generation are smaller and weaker than those of Europeans. Is this a fact? I believe not; at least it is an observation I never heard before.—"They have no beard." Had he known the pains and trouble it costs the men to pluck out by the roots the hair that grows on their faces, he would have seen that nature had not been deficient in that respect. Every nation has its customs. I have seen an Indian beau, with a looking-glass in his hand, examining his face for hours together, and plucking out by the roots every hair he could discover, with a kind of tweezer made of a piece of fine brass wire, that had been twisted round a stick, and which he used with great dexterity.—"They have no ardor for their females." It is true they do not indulge those excesses, nor discover that fondness which is customary in Europe; but this is not owing to a defect in nature but to manners. Their soul is wholly bent upon war. This is what procures them glory among the men, and makes them the admiration of the women. To this they are educated from their earliest youth. When they pursue game with ardor, when they bear the fatigues of the chase, when they sustain and suffer patiently hunger and cold; it is not so much for the sake of the game they pursue, as to convince their parents and the council of the nation that they are fit to be enrolled in the number of the warriors. The songs of the women, the dance of the warriors, the sage counsel of the chiefs, the tales of the old, the triumphal entry of the warriors returning with success from battle, and the respect paid to those who distinguish themselves in war, and in subduing their enemies; in short, everything they see or hear tends to inspire them with an ardent desire for military fame. If a young man were to discover a fondness for women before he has been to war, he would become the contempt of the men, and the scorn and ridicule of the women. Or were he to indulge himself with a captive taken in war, and much more were he to offer violence in order to gratify his lust, he would incur indelible disgrace. The seeming frigidity of the men, therefore, is the effect of manners, and not a defect of nature. Besides, a celebrated war-

rior is oftener courted by the females, than he has occasion to court; and this is a point of honor which the men aim at. Instances similar to that of Ruth and Boaz* are not uncommon among them. For though the women are modest and diffident, and so bashful that they seldom lift up their eyes, and scarce ever look a man full in the face, yet, being brought up in great subjection, custom and manners reconcile them to modes of acting, which, judged of by Europeans, would be deemed inconsistent with the rules of female decorum and propriety. I once saw a young widow, whose husband, a warrior, had died about eight days before, hastening to finish her grief, and who, by tearing her hair, beating her breast, and drinking spirits, made the tears flow in great abundance, in order that she might grieve much in a short space of time, and be married that evening to another young warrior. The manner in which this was viewed by the men and women of the tribe, who stood round, silent and solemn spectators of the scene, and the indifference with which they answered my question respecting it, convinced me that it was no unusual custom. I have known men advanced in years, whose wives were old and past child-bearing, take young wives, and have children, though the practice of polygamy is not common. Does this savor of frigidity, or want of ardor for the female? Neither do they seem to be deficient in natural affection. I have seen both fathers and mothers in the deepest affliction, when their children have been dangerously ill; though I believe the affection is stronger in the descending than the ascending scale, and though custom forbids a father to grieve immoderately for a son slain in battle. "That they are timorous and cowardly," is a character with which there is little reason to charge them, when we recollect the manner in which the Iroquois met Monsieur ———, who marched into their country; in which the old men, who scorned to fly, or to survive the capture of their town, braved death, like the old Romans in the time of the Gauls, and in which they soon after revenged them-

* When Boaz had eaten and drank, and his heart was merry, he went to lie down at the end of the heap of corn; and Ruth came softly, and uncovered his feet, and laid her down. Ruth, iii. 7.

selves by sacking and destroying Montreal. But above all, the unshaken fortitude with which they bear the most excruciating tortures and death when taken prisoners, ought to exempt them from that character. Much less are they to be characterized as a people of no vivacity, and who are excited to action or motion only by the calls of hunger and thirst. Their dances in which they so much delight, and which to an European would be the most severe exercise, fully contradict this, not to mention their fatiguing marches, and the toil they voluntarily and cheerfully undergo in their military expeditions. It is true, that when at home, they do not employ themselves in labor or the culture of the soil; but this again is the effect of customs and manners, which have assigned that to the province of the women. But it is said, they are averse to society and a social life. Can anything be more inapplicable than this to a people who always live in towns or clans? Or can they be said to have no "republic," who conduct all their affairs in national councils, who pride themselves in their national character, who consider an insult or injury done to an individual by a stranger as done to the whole, and resent it accordingly? In short, this picture is not applicable to any nation of Indians I have ever known or heard of in North America.

(5.) p. 340. As far as I have been able to learn, the country from the sea coast to the Alleghany, and from the most southern waters of James river up to Patuxen river, now in the State of Maryland, was occupied by three different nations of Indians, each of which spoke a different language, and were under separate and distinct governments. What the original or real names of those nations were, I have not been able to learn with certainty; but by us they are distinguished by the names of Powhatans, Mannahoacs, and Monacans, now commonly called Tuscaroras. The Powhatans, who occupied the country from the sea shore up to the falls of the rivers, were a powerful nation, and seem to have consisted of seven tribes, five on the western and two on the eastern shore. Each of these tribes was subdivided into towns, families, or clans, who lived together. All the nations of Indians in North America lived in the hunter

state, and depended for subsistence on hunting, fishing, and the spontaneous fruits of the earth, and a kind of grain which was planted and gathered by the women, and is now known by the name of Indian corn. Long potatoes, pumpkins of various kinds, and squashes, were also found in use among them. They had no flocks, herds, or tamed animals of any kind. Their government is a kind of patriarchal confederacy. Every town or family has a chief, who is distinguished by a particular title, and whom we commonly call "Sachem." The several towns or families that compose a tribe, have a chief who presides over it, and the several tribes composing a nation have a chief who presides over the whole nation. These chiefs are generally men advanced in years, and distinguished by their prudence and abilities in council. The matters which merely regard a town or family are settled by the chief and principal men of the town; those which regard a tribe, such as the appointment of head warriors or captains, and settling differences between different towns and families, are regulated at a meeting or council of the chiefs from the several towns; and those which regard the whole nation, such as the making war, concluding peace, or forming alliances with the neighboring nations, are deliberated on and determined in a national council composed of the chiefs of the tribe, attended by the head warriors and a number of the chiefs from the towns, who are his counsellors. In every town there is a council house, where the chief and old men of the town assemble, when occasion requires, and consult what is proper to be done. Every tribe has a fixed place for the chiefs of the towns to meet and consult on the business of the tribe; and in every nation there is what they call the central council house, or central council fire, where the chiefs of the several tribes, with the principal warriors, convene to consult and determine on their national affairs. When any matter is proposed in the national council, it is common for the chiefs of the several tribes to consult thereon apart with their counsellors, and when they have agreed, to deliver the opinion of the tribe at the national council; and, as their government seems to rest wholly on persuasion, they endeavor, by mutual concessions, to obtain unanimity. Such is

the government that still subsists among the Indian nations bordering upon the United States. Some historians seem to think, that the dignity of office of Sachem was hereditary. But that opinion does not appear to be well founded. The sachem or chief of the tribe seems to be by election. And sometimes persons who are strangers, and adopted into the tribe, are promoted to this dignity, on account of their abilities. Thus on the arrival of Captain Smith, the first founder of the colony of Virginia, Opechancanough, who was Sachem or chief of the Chickahominies, one of the tribes of the Powhatans, is said to have been of another tribe, and even of another nation, so that no certain account could be obtained of his origin or descent. The chiefs of the nation seem to have been by a rotation among the tribes. Thus when Captain Smith, in the year 1609, questioned Powhatan (who was the chief of the nation, and whose proper name is said to have been Wahunsonacock) respecting the succession, the old chief informed him, "that he was very old, and had seen the death of all his people thrice ;* that not one of these generations were then living except himself; that he must soon die, and the succession descend in order to his brother Opichapan, Opechancanough, and Catataugh, and then to his two sisters, and their two daughters." But these were appellations designating the tribes in the confederacy. For the persons named are not his real brothers, but the chiefs of different tribes. Accordingly in 1618, when Powhatan died, he was succeeded by Opichapan, and after his decease, Opechancanough became chief of the nation. I need only mention another instance to show that the chiefs of the tribes claimed this kindred with the head of the nation. In 1622, when Raleigh Crashaw was with Japa-

* This is one generation more than the poet ascribes to the life of Nestor:

Tö d' ede duo men geneai meropö anthröpön
Ephthiath oi oi prosthen ama traphen ed' egneonto
En Pulö egathee, meta de tritatoisin anassen.

II. Hom. II. 250.

Two generations now had passed away,
Wise by his rules, and happy by his sway;
Two ages o'er his native realm he reign'd,
And now th' example of the third remained. POPE.

zaw, the Sachem or chief of the Potomacs, Opechancanough, who had great power and influence, being the second man in the nation, and next in succession to Opichapan, and who was a bitter but secret enemy to the English, and wanted to engage his nation in a war with them, sent two baskets of beads to the Potomac chief, and desired him to kill the Englishman that was with him. Japazaw replied, that the English were his friends, and Opichapan his *brother*, and that therefore there should be no blood shed between them by his means. It is also to be observed, that when the English first came over, in all their conferences with any of the chiefs, they constantly heard him make mention of his *brother*, with whom he must consult, or to whom he referred them, meaning thereby either the chief of the nation, or the tribes in confederacy. The Manahoacks are said to have been a confederacy of four tribes, and in alliance with the Monacans, in the war which they were carrying on against the Powhatans.

To the northward of these there was another powerful nation which occupied the country from the head of the Chesapeake bay up to the Kittatinney mountain, and as far eastward as Connecticut river, comprehending that part of New York which lies between the Highlands and the ocean, all the State of New Jersey, that part of Pennsylvania which is watered, below the range of the Kittatinney mountains, by the rivers or streams falling into the Delaware, and the county of Newcastle in the State of Delaware, as far as Duck creek. It is to be observed, that the nations of Indians distinguished their countries one from another by natural boundaries, such as ranges of mountains or streams of water. But as the heads of rivers frequently interlock, or approach near to each other, as those who live upon a stream claim the country watered by it, they often encroached on each other, and this is a constant source of war between the different nations. The nation occupying the tract of country last described, called themselves Lenopi. The French writers call them Loups; and among the English they are now commonly called Delawares. This nation or confederacy consisted of five tribes, who all spoke one language. 1. The Chihohocki,

who dwelt on the west side of the river now called Delaware, a name which it took from Lord De la War, who put into it on his passage from Virginia in the year ——, but which by the Indians was called Chihohocki. 2. The Wanami, who inhabit the country called New Jersey, from the Rariton to the sea. 3. The Munsey, who dwelt on the upper streams of the Delaware, from the Kittatinney mountains down to the Lehigh or western branch of the Delaware. 4. The Wabinga, who are sometimes called River Indians, sometimes Mohickanders, and who had their dwelling between the west branch of Delaware and Hudson's river, from the Kittatinney Ridge down to the Rariton; and 5. The Mahiccon, or Manhattan, who occupied Staten Island, York Island (which from its being the principal seat of their residence was formerly called Manhattan), Long Island, and that part of New York and Connecticut which lies between Hudson and Connecticut rivers, from the highland, which is a continuation of the Kittatinney Ridge down to the Sound. This nation had a close alliance with the Shawanese, who lived on the Susquehanna and to the westward of that river, as far as the Alleghany mountains, and carried on a long war with another powerful nation or confederacy of Indians, which lived to the north of them between the Kittatinney mountains or highlands, and the Lake Ontario, and who call themselves Mingoes, and are called by the French writers Iroquois, by the English the Five Nations, and by the Indians to the southward, with whom they were at war, Massawomacs. This war was carrying on in its greatest fury, when Captain Smith first arrived in Virginia. The Mingo warriors had penetrated down the Susquehannah to the mouth of it. In one of his excursions up the bay, at the mouth of Susquehannah, in 1608, Captain Smith met with six or seven of their canoes full of warriors, who were coming to attack their enemies in the rear. In an excursion which he had made a few weeks before, up the Rappahannock, and in which he had a skirmish with a party of the Manahoacs, and taken a brother of one of their chiefs prisoner, he first heard of this nation. For when he asked the prisoner why his nation attacked the English? the prisoner said, because his nation had heard that the

English came from under the world to take their world from them. Being asked, how many worlds he knew? he said, he knew but one, which was under the sky that covered him, and which consisted of Powhatans, the Manakins, and the Massawomacs. Being questioned concerning the latter, he said, they dwelt on a great water to the North, that they had many boats, and so many men, that they waged war with all the rest of the world. The Mingo confederacy then consisted of five tribes; three who are the elder, to wit, the Senecas, who live to the West, the Mohawks to the East, and the Onondagas between them; and two who are called the younger tribes, namely, the Cayugas and Oneidas. All these tribes speak one language, and were then united in a close confederacy, and occupied the tract of country from the east end of Lake Erie to Lake Champlain, and from the Kittatinney and Highlands to the Lake Ontario and the river Cadaraqui, or St. Lawrence. They had some time before that, carried on a war with a nation, who lived beyond the lakes, and were called Adirondacks. In this war they were worsted; but having made a peace with them, through the intercession of the French who were then settling Canada, they turned their arms against the Lenopi; and as this war was long and doubtful, they, in the course of it, not only exerted their whole force, but put in practice every measure which prudence or policy could devise to bring it to a successful issue. For this purpose they bent their course down the Susquehannah, and warring with the Indians in their way, and having penetrated as far as the mouth of it, they, by the terror of their arms, engaged a nation, now known by the name of Nanticocks, Conoys, and Tuteloes, and who lived between Chesapeake and Delaware bays, and bordering on the tribe of Chihohocki, to enter into an alliance with them. They also formed an alliance with the Monicans, and stimulated them to a war with the Lenopi and their confederates. At the same time the Mohawks carried on a furious war down the Hudson against the Mohiccons and River Indians, and compelled them to purchase a temporary and precarious peace, by acknowledging them to be their superiors, and paying an annual tribute. The Lenopi being surrounded with enemies, and

hard pressed, and having lost many of their warriors, were at last compelled to sue for peace, which was granted to them on the condition that they should put themselves under the protection of the Mingoes, confine themselves to raising corn, hunting for the subsistence of their families, and no longer have the power of making war. This is what the Indians call making them women. And in this condition the Lenopi were when William Penn first arrived and began the settlement of Pennsylvania in 1682.

(6.) p. 342. From the figurative language of the Indians, as well as from the practice of those we are still acquainted with, it is evident that it was and still continues to be, a constant custom among the Indians to gather up the bones of the dead, and deposit them in a particular place. Thus, when they make peace with any nation with whom they have been at war, after burying the hatchet, they take up the belt of wampum, and say, "We now gather up all the bones of those who have been slain, and bury them," &c. See all the treaties of peace. Besides, it is customary when any of them die at a distance from home, to bury them, and afterwards to come and take up the bones and carry them home. At a treaty which was held at Lancaster with the Six Nations, one of them died, and was buried in the woods a little distance from the town. Some time after a party came and took up the body, separated the flesh from the bones by boiling and scraping them clean, and carried them to be deposited in the sepulchres of their ancestors. The operation was so offensive and disagreeable, that nobody could come near them while they were performing it.

(7.) p. 350. The Osweàtchies, Connosedàgoes and Cohunnegagoes, or, as they are commonly called, Caghnewàgos, are of the Mingo or Six Nation Indians, who, by the influence of the French missionaries, have been separated from their nation, and induced to settle there.

I do not know of what nation the Augquàgahs are, but suspect they are a family of the Senecas.

The Nanticocks and Conòies were formerly of a nation that lived at the head of Chesapeake bay, and who, of late years,

have been adopted into the Mingo or Iroquois confederacy, and make a seventh nation. The Monacans or Tuscaroras, who were taken into the confederacy in 1712, making the sixth.

The Saponies are families of the Wanamies, who removed from New Jersey, and with the Mohiccons, Munsies, and Delawares, belonging to the Lenopi nation. The Mingos are a war colony from the Six Nations; so are the Cohunnewagos.

Of the rest of the Northern tribes I never have been able to learn anything certain. But all accounts seem to agree in this, that there is a very powerful nation, distinguished by a variety of names taken from the several towns or families, but commonly called Tàwas or Ottawas, who speak one language, and live round and on the waters that fall into the western lakes, and extend from the waters of the Ohio quite to the waters falling into Hudson's bay.

No. II.

In the summer of the year 1783, it was expected that the assembly of Virginia would call a Convention for the establishment of a Constitution. The following draught of a fundamental Constitution for the Commonwealth of Virginia was then prepared, with a design of being proposed in such Convention had it taken place.

To the citizens of the commonwealth of Virginia, and all others whom it may concern, the delegates for the said commonwealth in Convention assembled, send greeting:

It is known to you and to the world, that the government of Great Britain, with which the American States were not long since connected, assumed over them an authority unwarrantable and oppressive; that they endeavored to enforce this authority by arms, and that the States of New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, considering resistance, with all its train of horrors, as a lesser evil than abject submission, closed in the appeal to arms. It hath pleased the Sovereign Disposer of all

human events to give to this appeal an issue favorable to the rights of the States; to enable them to reject forever all dependence on a government which had shown itself so capable of abusing the trusts reposed in it; and to obtain from that government a solemn and explicit acknowledgment that they are free, sovereign, and independent States. During the progress of that war, through which we had to labor for the establishment of our rights, the legislature of the commonwealth of Virginia found it necessary to make a temporary organization of government for preventing anarchy, and pointing our efforts to the two important objects of war against our invaders, and peace and happiness among ourselves. But this, like all other acts of legislation, being subject to change by subsequent legislatures, possessing equal powers with themselves; it has been thought expedient, that it should receive those amendments which time and trial have suggested, and be rendered permanent by a power superior to that of the ordinary legislature. The general assembly therefore of this State recommend it to the good people thereof, to choose delegates to meet in general convention, with powers to form a constitution of government for them, and to declare those fundamentals to which all our laws present and future shall be subordinate; and, in compliance with this recommendation, they have thought proper to make choice of us, and to vest us with powers for this purpose.

We, therefore, the delegates, chosen by the said good people of this State for the purpose aforesaid, and now assembled in general convention, do in execution of the authority with which we are invested, establish the following constitution and fundamentals of government for the said State of Virginia:

The said State shall forever hereafter be governed as a commonwealth.

The powers of government shall be divided into three distinct departments, each of them to be confided to a separate body of magistracy; to wit, those which are legislative to one, those which are judiciary to another, and those which are executive to another. No person, or collection of persons, being of one of these departments, shall exercise any power properly belong-

ing to either of the others, except in the instances hereinafter expressly permitted.

The legislature shall consist of two branches, the one to be called the House of Delegates, the other the Senate, and both together the General Assembly. The concurrence of both of these, expressed on three several readings, shall be necessary to the passage of a law.

Delegates for the general assembly shall be chosen on the last Monday of November in every year. But if an election cannot be concluded on that day, it may be adjourned from day to day till it can be concluded.

The number of delegates which each county may send shall be in proportion to the number of its qualified electors; and the whole number of delegates for the State shall be so proportioned to the whole number of qualified electors in it, that they shall never exceed three hundred, nor be fewer than one hundred. Whenever such excess or deficiency shall take place, the House of Delegates so deficient or excessive shall, notwithstanding this, continue in being during its legal term; but they shall, during that term, re-adjust the proportion, so as to bring their number within the limits before mentioned at the ensuing election. If any county be reduced in its qualified electors below the number authorized to send one delegate, let it be annexed to some adjoining county.

For the election of senators, let the several counties be allotted by the senate, from time to time, into such and so many districts as they shall find best; and let each county at the time of electing its delegates, choose senatorial electors, qualified as themselves are, and four in number for each delegate their county is entitled to send, who shall convene, and conduct themselves, in such manner as the legislature shall direct, with the senatorial electors from the other counties of their district, and then choose, by ballot, one senator for every six delegates which their district is entitled to choose. Let the senatorial districts be divided into two classes, and let the members elected for one of them be dissolved at the first ensuing general election of delegates, the other at the next, and so on alternately forever.

All free male citizens, of full age, and sane mind, who for one year before shall have been resident in the county, or shall through the whole of that time have possessed therein real property of the value of ————————; or shall for the same time have been enrolled in the militia, and no others, shall have a right to vote for delegates for the said county, and for senatorial electors for the district. They shall give their votes personally, and *viva voce.*

The general assembly shall meet at the place to which the last adjournment was, on the forty-second day after the day of election of delegates, and thencefoward at any other time or place on their own adjournment, till their office expires, which shall be on the day preceding that appointed for the meeting of the next general assembly. But if they shall at any time adjourn for more than one year, it shall be as if they had adjourned for one year precisely. Neither house, without the concurrence of the other, shall adjourn for more than one week, nor to any other place than the one at which they are sitting. The governor shall also have power, with the advice of the council of State, to call them at any other time to the same place, or to a different one, if that shall have become, since the last adjournment, dangerous from an enemy, or from infection.

A majority of either house shall be a quorum, and shall be requisite for doing business; but any smaller proportion which from time to time shall be thought expedient by the respective houses, shall be sufficient to call for, and to punish, their non-attending members, and to adjourn themselves for any time not exceeding one week.

The members, during their attendance on the general assembly, and for so long a time before and after as shall be necessary for travelling to and from the same, shall be privileged from all personal restraint and assault, and shall have no other privilege whatsoever. They shall receive during the same time, daily wages in gold or silver, equal to the value of two bushels of wheat. This value shall be deemed one dollar by the bushel till the year 1790, in which, and in every tenth year thereafter, the general court, at their first sessions in the year, shall cause a

special jury, of the most respectable merchants and farmers, to be summoned, to declare what shall have been the averaged value of wheat during the last ten years; which averaged value shall be the measure of wages for the ten subsequent years.

Of this general assembly, the treasurer, attorney general, register, ministers of the gospel, officers of the regular armies of this State, or of the United States, persons receiving salaries or emoluments from any power foreign to our confederacy, those who are not resident in the county for which they are chosen delegates, or districts for which they are chosen senators, those who are not qualified as electors, persons who shall have committed treason, felony, or such other crime as would subject them to infamous punishment, or who shall have been convicted by due course of law of bribery or corruption, in endeavoring to procure an election to the said assembly, shall be incapable of being members. All others, not herein elsewhere excluded, who may elect, shall be capable of being elected thereto.

Any member of the said assembly accepting any office of profit under this State, or the United States, or any of them, shall thereby vacate his seat, but shall be capable of being re-elected.

Vacancies occasioned by such disqualifications, by death, or otherwise, shall be supplied by the electors, on a writ from the speaker of the respective house.

The general assembly shall not have power to infringe this constitution; to abridge the civil rights of any person on account of his religious belief; to restrain him from professing and supporting that belief, or to compel him to contributions, other than those he shall have personally stipulated for the support of that or any other; to ordain death for any crime but treason or murder, or military offences; to pardon, or give a power of pardoning persons duly convicted of treason or felony, but instead thereof they may substitute one or two new trials, and no more; to pass laws for punishing actions done before the existence of such laws; to pass any bill of attainder of treason or felony; to prescribe torture in any case whatever; nor to permit the introduction of any more slaves to reside in this State, or the continuance of slavery beyond the generation which shall be living on the

thirty-first day of December, one thousand eight hundred; all persons born after that day being hereby declared free.

The general assembly shall have power to sever from this State all or any parts of its territory westward of the Ohio, or of the meridian of the mouth of the Great Kanhaway, and to cede to Congress one hundred square miles of territory in any other part of this State, exempted from the jurisdiction and government of this State so long as Congress shall hold their sessions therein, or in any territory adjacent thereto, which may be tendered to them by any other State.

They shall have power to appoint the speakers of their respective houses, treasurer, auditors, attorney general, register, all general officers of the military, their own clerks and serjeants, and no other officers, except where, in other parts of this constitution, such appointment is expressly given them.

The executive powers shall be exercised by a *Governor*, who shall be chosen by joint ballot of both houses of assembly, and when chosen shall remain in office five years, and be ineligible a second time. During his term he shall hold no other office or emolument under this State, or any other State or power whatsoever. By executive powers, we mean no reference to those powers exercised under our former government by the crown as of its prerogative, nor that these shall be the standard of what may or may not be deemed the rightful powers of the governor. We give him those powers only, which are necessary to execute the laws (and administer the government), and which are not in their nature either legislative or judiciary. The application of this idea must be left to reason. We do however expressly deny him the prerogative powers of erecting courts, offices, boroughs, corporations, fairs, markets, ports, beacons, light-houses, and seamarks; of laying embargoes, of establishing precedence, of retaining within the State, or recalling to it any citizen thereof, and of making denizens, except so far as he may be authorized from time to time by the legislature to exercise any of those powers. The power of declaring war and concluding peace, of contracting alliances, of issuing letters of marque and reprisal, of raising and introducing armed forces, of building armed ves-

seis, forts, or strongholds, of coining money or regulating its value, of regulating weights and measures, we leave to be exercised under the authority of the confederation; but in all cases respecting them which are out of the said confederation, they shall be exercised by the governor, under the regulation of such laws as the legislature may think it expedient to pass.

The whole military of the State, whether regular, or of militia, shall be subject to his directions; but he shall leave the execution of those directions to the general officers appointed by the legislature.

His salary shall be fixed by the legislature at the session of the assembly in which he shall be appointed, and before such appointment be made; or if it be not then fixed, it shall be the same which his next predecessor in office was entitled to. In either case he may demand it quarterly out of any money which shall be in the public treasury; and it shall not be in the power of the legislature to give him less or more, either during his continuance in office, or after he shall have gone out of it. The lands, houses, and other things appropriated to the use of the governor, shall remain to his use during his continuance in office.

A *Council of State* shall be chosen by joint ballot of both houses of assembly, who shall hold their offices seven years, and be ineligible a second time, and who, while they shall be of the said council, shall hold no other office or emolument under this State, or any other State or power whatsoever. Their duty shall be to attend and advise the governor when called on by him, and their advice in any case shall be a sanction to him. They shall also have power, and it shall be their duty, to meet at their own will, and to give their advice, though not required by the governor, in cases where they shall think the public good calls for it. Their advice and proceedings shall be entered in books to be kept for that purpose, and shall be signed as approved or disapproved by the members present. These books shall be laid before either house of assembly when called for by them. The said council shall consist of eight members for the present; but their numbers may be increased or reduced by the legislature, whenever they shall think it necessary; provided such reduction

be made only as the appointments become vacant by death, resignation, disqualification, or regular deprivation. A majority of their actual number, and not fewer, shall be a quorum. They shall be allowed for the present —— each by the year, payable quarterly out of any money which shall be in the public treasury. Their salary, however, may be increased or abated from time to time, at the discretion of the legislature; provided such increase or abatement shall not, by any ways or means, be made to affect either then, or at any future time, any one of those then actually in office. At the end of each quarter their salary shall be divided into equal portions by the number of days on which, during that quarter, a council has been held, or required by the governor, or by their own adjournment, and one of those portions shall be withheld from each member for every of the said days which, without cause allowed good by the board, he failed to attend, or departed before adjournment without their leave. If no board should have been held during that quarter, there shall be no deduction.

They shall annually choose a *President*, who shall preside in council in the absence of the governor, and who, in case of his office becoming vacant by death or otherwise, shall have authority to exercise all his functions, till a new appointment be made, as he shall also in any interval during which the governor shall declare himself unable to attend to the duties of his office.

The *Judiciary* powers shall be exercised by county courts and such other inferior courts as the legislature shall think proper to continue or to erect, by three superior courts, to wit, a Court of Admiralty, a general Court of Common Law, and a High Court of Chancery; and by one Supreme Court, to be called the Court of Appeals.

The judges of the high court of chancery, general court, and court of admiralty, shall be four in number each, to be appointed by joint ballot of both houses of assembly, and to hold their offices during good behavior. While they continue judges, they shall hold no other office or emolument, under this State, or any other State or power whatsoever, except that they may be delegated to Congress, receiving no additional allowance.

These judges, assembled together, shall constitute the Court of Appeals, whose business shall be to receive and determine appeals from the three superior courts, but to receive no original causes, except in the cases expressly permitted herein.

A majority of the members of either of these courts, and not fewer, shall be a quorum. But in the Court of Appeals nine members shall be necessary to do business. Any smaller numbers however may be authorized by the legislature to adjourn their respective courts.

They shall be allowed for the present —— each by the year, payable quarterly out of any money which shall be in the public treasury. Their salaries, however, may be increased or abated, from time to time, at the discretion of the legislature, provided such increase or abatement shall not by any ways or means, be made to affect, either then, or at any future time, any one of those then actually in office. At the end of each quarter their salary shall be divided into equal portions by the number of days on which, during that quarter, their respective courts sat, or should have sat, and one of these portions shall be withheld from each member for every of the said days which, without cause allowed good by his court, he failed to attend, or departed before adjournment without their leave. If no court should have been held during the quarter, there shall be no deduction.

There shall, moreover, be a *Court of Impeachments*, to consist of three members of the Council of State, one of each of the superior courts of Chancery, Common Law, and Admiralty, two members of the house of delegates and one of the Senate, to be chosen by the body respectively of which they are. Before this court any member of the three branches of government, that is to say, the governor, any member of the council, of the two houses of legislature, or of the superior courts, may be impeached by the governor, the council, or either of the said houses or courts, and by no other, for such misbehavior in office as would be sufficient to remove him therefrom; and the only sentence they shall have authority to pass shall be that of deprivation and future incapacity of office. Seven members shall be requisite to make a court, and two-thirds of those present must concur in the

sentence. The offences cognizable by this court shall be cognizable by no other, and they shall be triers of the fact as well as judges of the law.

The justices or judges of the inferior courts already erected, or hereafter to be erected, shall be appointed by the governor, on advice of the council of State, and shall hold their offices during good behavior, or the existence of their courts. For breach of the good behavior, they shall be tried according to the laws of the land, before the Court of Appeals, who shall be judges of the fact as well as of the law. The only sentence they shall have authority to pass shall be that of deprivation and future incapacity of office, and two-thirds of the members present must concur in this sentence.

All courts shall appoint their own clerks, who shall hold their offices during good behavior, or the existence of their court; they shall also appoint all other attending officers to continue during their pleasure. Clerks appointed by the supreme or superior courts shall be removable by their respective courts. Those to be appointed by other courts shall have been previously examined, and certified to be duly qualified, by some two members of the general court, and shall be removable for breach of the good behavior by the Court of Appeals only, who shall be judges of the fact as well as of the law. Two-thirds of the members present must concur in the sentence.

The justices or judges of the inferior courts may be members of the legislature.

The judgment of no inferior court shall be final, in any civil case, of greater value than fifty bushels of wheat, as last rated in the general court for setting the allowance to the members of the general assembly, nor in any case of treason, felony, or other crime which should subject the party to infamous punishment.

In all causes depending before any court, other than those of impeachments, of appeals, and military courts, facts put in issue shall be tried by jury, and in all courts whatever witnesses shall give testimony *viva voce* in open court, wherever their attendance can be procured; and all parties shall be allowed counsel and cumpulsory process for their witnesses.

Fines, amercements, and terms of imprisonment left indefinite by the law, other than for contempts, shall be fixed by the jury, triers of the offence.

The governor, two councillors of State, and a judge from each of the superior Courts of Chancery, Common Law, and Admiralty, shall be a council to revise all bills which shall have passed both houses of assembly, in which council the governor, when present, shall preside. Every bill, before it becomes a law, shall be represented to this council, who shall have a right to advise its rejection, returning the bill, with their advice and reasons in writing, to the house in which it originated, who shall proceed to reconsider the said bill. But if after such reconsideration, two-thirds of the house shall be of opinion that the bill should pass finally, they shall pass and send it, with the advice and written reasons of the said Council of Revision, to the other house, wherein if two-thirds also shall be of opinion it should pass finally, it shall thereupon become law; otherwise it shall not.

If any bill, presented to the said council, be not, within one week (exclusive of the day of presenting it) returned by them, with their advice of rejection and reasons, to the house wherein it originated, or to the clerk of the said house, in case of its adjournment over the expiration of the week, it shall be law from the expiration of the week, and shall then be demandable by the clerk of the House of Delegates, to be filed of record in his office.

The bills which they approve shall become law from the time of such approbation, and shall then be returned to, or demandable by, the clerk of the House of Delegates, to be filed of record in his office.

A bill rejected on advice of the Council of Revision may again be proposed, during the same session of assembly, with such alterations as will render it conformable to their advice.

The members of the said Council of Revision shall be appointed from time to time by the board or court of which they respectively are. Two of the executive and two of the judiciary members shall be requisite to do business; and to prevent the

evils of non-attendance, the board and courts may at any time name all, or so many as they will, of their members, in the particular order in which they would choose the duty of attendance to devolve from preceding to subsequent members, the preceding failing to attend. They shall have additionally for their services in this council the same allowance as members of assembly have.

The confederation is made a part of this constitution, subject to such future alterations as shall be agreed to by the legislature of this State, and by all the other confederating States.

The delegates to Congress shall be five in number; any three of whom, and no fewer, may be a representation. They shall be appointed by joint ballot of both houses of assembly for any term not exceeding one year, subject to be recalled, within the term, by joint vote of both the said houses. They may at the same time be members of the legislative or judiciary departments, but not of the executive.

The benefits of the writ of Habeas Corpus shall be extended, by the legislature, to every person within this State, and without fee, and shall be so facilitated that no person may be detained in prison more than ten days after he shall have demanded and been refused such writ by the judge appointed by law, or if none be appointed, then by any judge of a superior court, nor more than ten days after such writ shall have been served on the person detaining him, and no order given, on due examination, for his remandment or discharge.

The military shall be subordinate to the civil power.

Printing presses shall be subject to no other restraint than liableness to legal prosecution for false facts printed and published.

Any two of the three branches of government concurring in opinion, each by the voice of two-thirds of their whole existing number, that a convention is necessary for altering this constitution, or correcting breaches of it, they shall be authorized to issue writs to every county for the election of so many delegates as they are authorized to send to the general assembly, which elections shall be held, and writs returned, as the laws shall have provided in the case of elections of delegates of assembly, *mu-*

tatis mutandis, and the said delegates shall meet at the usual place of holding assemblies, three months after date of such writs, and shall be acknowledged to have equal powers with this present convention. The said writs shall be signed by all the members approving the same.

To introduce this government, the following special and temporary provision is made.

This convention being authorized only to amend those laws which constituted the form of government, no general dissolution of the whole system of laws can be supposed to have taken place; but all laws in force at the meeting of this convention, and not inconsistent with this constitution, remain in full force, subject to alterations by the ordinary legislature.

The present general assembly shall continue till the forty-second day after the last Monday of November in this present year. On the said last Monday of November in this present year, the several counties shall by their electors qualified as provided by this constitution, elect delegates, which for the present shall be, in number, one for every ———— militia of the said county, according to the latest returns in possession of the governor, and shall also choose senatorial electors in proportion thereto, which senatorial electors shall meet on the fourteenth day after the day of their election, at the court house of that county of their present district which would stand first in an alphabetical arrangement of their counties, and shall choose senators in the proportion fixed by this constitution. The elections and returns shall be conducted, in all circumstances not hereby particularly prescribed, by the same persons and under the same forms as prescribed by the present laws in elections of senators and delegates of assembly. The said senators and delegates shall constitute the first general assembly of the new government, and shall specially apply themselves to the procuring an exact return from every county of the number of its qualified electors, and to the settlement of the number of delegates to be elected for the ensuing general assembly.

The present governor shall continue in office to the end of the term for which he was elected.

All other officers of every kind shall continue in office as they would have done had their appointment been under this constitution, and new ones, where new are hereby called for, shall be appointed by the authority to which such appointment is referred. One of the present judges of the general court, he consenting thereto, shall by joint ballot of both houses of assembly, at their first meeting, be transferred to the High Court of Chancery.

No. III.

An Act for establishing Religious Freedom, passed in the Assembly of Virginia in the beginning of the year 1786.

Well aware that Almighty God hath created the mind free; that all attempts to influence it by temporal punishments or burdens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the Holy Author of our religion, who being Lord both of body and mind, yet chose not to propagate it by coercions on either, as was in his Almighty power to do; that the impious presumption of legislators and rulers, civil as well as ecclesiastical, who, being themselves but fallible and uninspired men have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavoring to impose them on others, hath established and maintained false religions over the greatest part of the world, and through all time; that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness, and is withdrawing from the ministry those temporal rewards, which proceeding from an approbation of their personal

conduct, are an additional incitement to earnest and unremitting labors for the instruction of mankind; that our civil rights have no dependence on our religious opinions, more than our opinions in physics or geometry; that, therefore, the proscribing any citizen as unworthy the public confidence by laying upon him an incapacity of being called to the offices of trust and emolument, unless he profess or renounce this or that religious opinion, is depriving him injuriously of those privileges and advantages to which in common with his fellow citizens he has a natural right; that it tends also to corrupt the principles of that very religion it is meant to encourage, by bribing, with a monopoly of worldly honors and emoluments, those who will externally profess and conform to it; that though indeed these are criminal who do not withstand such temptation, yet neither are those innocent who lay the bait in their way; that to suffer the civil magistrate to intrude his powers into the field of opinion and to restrain the profession or propagation of principles, on the supposition of their ill tendency, is a dangerous fallacy, which at once destroys all religious liberty, because he being of course judge of that tendency, will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own; that it is time enough for the rightful purposes of civil government, for its officers to interfere when principles break out into overt acts against peace and good order; and finally, that truth is great and will prevail if left to herself, that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict, unless by human interposition disarmed of her natural weapons, free argument and debate, errors ceasing to be dangerous when it is permitted freely to contradict them.

Be it therefore enacted by the General Assembly, That no man shall be compelled to frequent or support any religious worship, place or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the

same shall in nowise diminish, enlarge, or affect their civil capacities.

And though we well know this Assembly, elected by the people for the ordinary purposes of legislation only, have no power to restrain the acts of succeeding assemblies, constituted with the powers equal to our own, and that therefore to declare this act irrevocable, would be of no effect in law, yet we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present or to narrow its operation, such act will be an infringement of natural right.

AN APPENDIX

RELATIVE TO THE MURDER OF LOGAN'S FAMILY.*

The "Notes on Virginia" were written, in Virginia, in the years 1781 and 1782, in answer to certain queries proposed to me by Monsieur de Marbois, then secretary of the French legation in the United States; and a manuscript copy was delivered to him. A few copies, with some additions, were afterwards, in 1784, printed in Paris, and given to particular friends. In speaking of the animals of America, the theory of M. de Buffon, the Abbe Raynal, and others presented itself to consideration. They have supposed there is something in the soil, climate, and other circumstances of America, which occasions animal nature to degenerate, not excepting even the man, native or adoptive, physical or moral. This theory, so unfounded and degrading to one-third of the globe, was called to the bar of fact and reason. Among other proofs adduced in contradiction of this hypothesis, the speech of Logan, an Indian chief, delivered to Lord Dunmore in 1774, was produced, as a specimen of the talents of the aboriginals of this country, and particularly of their eloquence; and it was believed that Europe had never produced anything superior to this morsel of eloquence. In order to make it intelligible to the reader, the transaction, on which it was founded, was stated, as it had been generally related in America at the time, and as I had heard it myself, in the circle of Lord Dunmore, and the officers who accompanied him; and the speech itself was given as it had, ten years before the printing of that book, circulated in the newspapers through all the then colonies,

* In connection with this appendix see letter to Governor Henry, printed as Note in p. 309.

through the magazines of Great Britain, and periodical publications of Europe. For three and twenty years it passed uncontradicted; nor was it ever suspected that it even admitted contradiction. In 1797, however, for the first time, not only the whole transaction respecting Logan was affirmed in the public papers to be false, but the speech itself suggested to be a forgery, and even a forgery of mine, to aid me in proving that the man of America was equal in body and in mind, to the man of Europe. But wherefore the forgery; whether Logan's or mine, it would still have been American. I should indeed consult my own fame if the suggestion, that this speech is mine, were suffered to be believed. He would have just right to be proud who could with truth claim that composition. But it is none of mine; and I yield it to whom it is due.

On seeing then that this transaction was brought into question, I thought it my duty to make particular inquiry into its foundation. It was the more my duty, as it was alleged that, by ascribing to an individual therein named, a participation in the murder of Logan's family, I had done an injury to his character, which it had not deserved. I had no knowledge personally of that individual. I had no reason to aim an injury at him. I only repeated what I had heard from others, and what thousands had heard and believed as well as myself; and which no one indeed, till then, had been known to question. Twenty-three years had now elapsed, since the transaction took place. Many of those acquainted with it were dead, and the living dispersed to very distant parts of the earth. Few of them were even known to me. To those however of whom I knew, I made application by letter; and some others, moved by a regard for truth and justice, were kind enough to come forward, of themselves, with their testimony. These fragments of evidence, the small remains of a mighty mass which time has consumed, are here presented to the public, in the form of letters, certificates, or affidavits, as they came to me. I have rejected none of these forms, nor required other solemnities from those whose motives and characters were pledges of their truth. Historical transactions are deemed to be well vouched by the simple decla-

rations of those who have borne a part in them; and especially of persons having no interest to falsify or disfigure them. The world will now see whether they, or I, have injured Cresap, by believing Logan's charge against him; and they will decide between Logan and Cresap, whether Cresap was innocent, and Logan a calumniator?

In order that the reader may have a clear conception of the transactions, to which the different parts of the following declarations refer, he must take notice that they establish four different murders. 1. Of two Indians, a little above Wheeling. 2. Of others at Grave Creek, among whom were some of Logan's relations. 3. The massacre at Baker's bottom, on the Ohio, opposite the mouth of Yellow Creek, where were other relations of Logan. 4. Of those killed at the same place, coming in canoes to the relief of their friends. I place the numbers 1, 2, 3, 4, against certain paragraphs of the evidence, to indicate the particular murder to which the paragraph relates, and present also a small sketch or map of the principal scenes of these butcheries, for their more ready comprehension.

Extract of a letter from the Honorable Judge Innes, of Frankfort in Kentucky, to Thomas Jefferson, dated Kentucky, near Frankfort, March 2d, 1799

I recollect to have seen Logan's speech in 1775, in one of the public prints. That Logan conceived Cresap to be the author of the murder at Yellow Creek, it is in my power to give, perhaps, a more particular information, than any other person you can apply to.

In 1774 I lived in Fincastle county, now divided into Washington, Montgomery and part of Wythe. Being intimate in Col. Preston's family, I happened in July to be at his house, when an express was sent to him as County Lieut. requesting a guard of the militia to be ordered out for the protection of the inhabitants residing low down on the north fork of Holston river. The express brought with him a War Club, and a note which was left tied to it at the house of one Robertson, whose family were cut off by the Indians, and gave rise for the application to Col. Preston, of which the following is a copy, then taken by me in my memorandum book.

"Captain Cresap,—What did you kill my people on Yellow Creek for? The white people killed my kin at Conestoga, a great while ago; and I thought no-

thing of that. But you killed my kin again, on Yellow Creek, and took my Cousin Prisoner. Then I thought I must kill too; and I have been three times to war since; but the Indians are not angry; only myself.

"July 21st, 1774. Captain JOHN LOGAN."

With great respect, I am, Dear Sir, your most obedient servant,

HARRY INNES.

Alleghany County, ss.
State of Pennsylvania.

Before me, the subscriber, a justice of the peace in and for said county, personally appeared John Gibson, Esquire, an associate Judge of same county, who being duly sworn, deposeth and saith that he traded with the Shawanese and other tribes of Indians then settled on the Siota in the year 1773, and in the beginning of the year 1774, and that in the month of April of the same year, he left the same Indian towns, and came to this place, in order to procure some goods and provisions, that he remained here only a few days, and then set out in company with a certain Alexander Blaine and M. Elliot by water to return to the towns on the Siota, and that one evening as they were drifting in their canoes near the Long Reach on the Ohio, they were hailed by a number of white men on the South West shore, who requested them to put ashore, as they had disagreeable news to inform them of; that we then landed on shore; and found amongst the party, a Major Angus M'Donald from West Chester, a Doctor Woods from same place, and a party as they said of one hundred and fifty men. We then asked the news. They informed us that some of the party who had been taken up, and improving lands near the Big Kanhawa river, had seen another party of white men, who informed them that they and some others had fell in with a party of Shawanese, who had been hunting on the South West side of the Ohio, that they had killed the whole of the Indian party, and that the others had gone across the country to Cheat river with the horses and plunder, the consequence of which they apprehended would be an Indian war, and that they were flying away. On making inquiry of them when this murder should have happened, we found that it must have been some considerable time before we left the Indian towns, and that there was not the smallest foundation for the report, as there was not a single man of the Shawanese, but what returned from hunting long before this should have happened.

We then informed them that if they would agree to remain at the place we then were, one of us would go to Hock Hocking river with some of their party, where we should find some of our people making canoes, and that if we did not find them there, we might conclude that everything was not right. Doctor Wood and another person then proposed going with me; the rest of the party seemed to agree, but said they would send and consult Captain Cresap, who was about two miles from that place. They sent off for him, and during the greatest part of the night they behaved in the most disorderly manner, threatening to kill us, and saying the damned traders were worse than the Indians and ought to be killed. In the morning Captain Michael Cresap came to the camp. I then gave him the information as above related. They then met in council, and after

an hour or more Captain Cresap returned to me, and informed that he could not prevail on them to adopt the proposal I had made to them, that as he had a great regard for Captain R. Callender, a brother-in-law of mine with whom I was connected in trade, he advised me by no means to think of proceeding any further, as he was convinced the present party would fall on and kill every Indian they met on the river, that for his part he should not continue with them, but go right across the country to Red-Stone to avoid the consequences. That we then proceeded to Hocking and went up the same to the canoe place where we found our people at work, and after some days we proceeded to the towns on Siota by land. On our arrival there, we heard of the different murders committed by the party on their way up the Ohio.

This Deponent further saith that in the year 1774, he accompanied Lord Dunmore on the expedition against the Shawanese and other Indians on the Siota, that on their arrival within fifteen miles of the towns, they were met by a flag, and a white man of the name of Elliot, who informed Lord Dunmore that the Chiefs of the Shawanese had sent to request his Lordship to halt his army and send in some person, who understood their language; that this Deponent, at the request of Lord Dunmore and the whole of the officers with him, went in; that on his arrival at the towns, Logan, the Indian, came to where the deponent was sitting with the Corn-Stalk, and the other chiefs of the Shawanese, and asked him to walk out with him; that they went into a copse of wood, where they sat down, when Logan, after shedding abundance of tears, delivered to him the speech, nearly as related by Mr. Jefferson in his notes on the State of Virginia; that he the deponent told him that it was not Col. Cresap who had murdered his relations, and that although his son Captain Michael Cresap was with the party who killed a Shawanese chief and other Indians, yet he was not present when his relations were killed at Baker's, near the mouth of Yellow Creek on the Ohio; that this Deponent on his return to camp delivered the speech to Lord Dunmore; and that the murders perpetrated as above were considered as ultimately the cause of the war of 1774, commonly called Cresap's war. JOHN GIBSON.

Sworn and subscribed the 4th April, 1800, at Pittsburg, before me,
JER. BARKER.

Extract of a letter from Col. Ebenezer Zane, to the honorable John Brown, one of the senators in Congress from Kentucky; dated Wheeling, Feb. 4th, 1800.

I was myself, with many others, in the practice of making improvements on lands upon the Ohio, for the purpose of acquiring rights to the same. Being on the Ohio at the mouth of Sandy Creek, in company with many others, news circulated that the Indians had robbed some of the Land jobbers. This news induced the people generally to ascend the Ohio. I was among the number. On our arrival at the Wheeling, being informed that there were two Indians with some traders near and above Wheeling, a proposition was made by the then Captain Michael Cresap to waylay and kill the Indians upon the river. This measure I opposed with much violence, alleging that the killing of those In-

dians might involve the country in a war. But the opposite party prevailed, and proceeded up the Ohio with Captain Cresap at their head.

In a short time the party returned, and also the traders, in a canoe; but there were no Indians in the company. I inquired what had become of the Indians, and was informed by the traders and Cresap's party that they had fallen overboard. I examined the canoe, and saw much fresh blood and some bullet holes in the canoe. This fully convinced me that the party had killed the two Indians, and thrown them into the river.

On the afternoon of the day this action happened, a report prevailed that
2 there was a camp, or party of Indians on the Ohio below and near the Wheeling. In consequence of this information, Captain Cresap with his party, joined by a number of recruits, proceeded immediately down the Ohio for the purpose, as was then generally understood, of destroying the Indians above mentioned. On the succeeding day, Captain Cresap and his party returned to Wheeling, and it was generally reported by the party that they had killed a number of Indians. Of the truth of this report I had no doubt, as one of Cresap's party was badly wounded, and the party had a fresh scalp, and a quantity of property, which they called Indian plunder. At the time of the last-mentioned transaction, it was generally reported that the party of Indians down the Ohio were Logan and his family; but I have reason to believe that this report was unfounded.

Within a few days after the transaction above mentioned, a party of Indians
3 were killed at Yellow Creek. But I must do the memory of Captain Cresap the justice to say that I do not believe that he was present at the killing of the Indians at Yellow Creek. But there is not the least doubt in my mind, that the massacre at Yellow Creek was brought on by the two transactions first stated.

All the transactions, which I have related happened in the latter end of April 1774; and there can scarcely be a doubt that they were the cause of the war which immediately followed, commonly called Dunmore's War.

I am with much esteem, yours, &c,

EBENEZER ZANE.

The certificate of William Huston of Washington county, in the State of Pennsylvania, communicated by David Riddick, Esquire, Prothonotary of Washington county, Pennsylvania; who in the letter enclosing it says "Mr. William Huston is a man of established reputation in point of integrity"

I William Huston of Washington county, in the State of Pennsylvania, do hereby certify to whom it may concern, that in the year 1774, I resided at Catfishes camp, on the main path from Wheeling to Redstone; that Michael Cresap, who resided on or near the Potomac river, on his way up from the river Ohio, at the head of a party of armed men, lay some time at my cabin.

2 I had previously heard the report of Mr. Cresap having killed some Indians, said to be the relations of "Logan" an Indian Chief. In a variety of conversations with several of Cresap's party, they boasted of the deed; and that

in the presence of their chief. They acknowledged they had fired first on the Indians. They had with them one man on a litter, who was in the skirmish.

I do further certify that, from what I learned from the party themselves, I then formed the opinion, and have not had any reason to change the opinion since, that the killing, on the part of the whites, was what I deem the grossest murder. I further certify that some of the party, who afterwards killed some 3
women and other Indians at Baker's bottom, also lay at my cabin, on their march to the interior part of the country; they had with them a little girl, whose life had been spared by the interference of some more humane than the rest. If necessary I will make affidavit to the above to be true. Certified at Washington, this 18th day of April, Anno Domini, 1798.

WILLIAM HUSTON.

The certificate of Jacob Newland, of Shelby County, Kentucky, communicated by the Honorable Judge Innes, of Kentucky.

In the year 1774, I lived on the waters of Short Creek, a branch of the Ohio, twelve miles above Wheeling. Some time in June or in July of that year, Capt. Michael Cresap raised a party of men, and came out under Col. M'Daniel, of Hampshire County, Virginia, who commanded a detachment against the Wappotommaka towns on the Muskinghum. I met with Capt. Cresap, at Redstone fort, and entered his company. Being very well acquainted with him, we conversed freely; and he, among other conversations, informed me several times
of falling in with some Indians on the Ohio some distance below the mouth 2
of Yellow Creek, and killed two or three of them; and that this murder was before that of the Indians by Great-house and others, at Yellow Creek. I do 3
not recollect the reason which Capt. Cresap assigned for committing the act, but never understood that the Indians gave any offence. Certified under my hand this 15th day of November, 1799, being an inhabitant of Shelby county, and State of Kentucky.

JACOB NEWLAND.

The Certificate of John Anderson, a merchant in Fredericksburg, Virginia; communicated by Mann Page, Esquire, of Mansfield, near Fredericksburg, who in the letter accompanying it, says, "Mr. John Anderson has for many years past been settled in Fredericksburg, in the mercantile line. I have known him in prosperous and adverse situations. He has always shown the greatest degree of Equanimity, his honesty and veracity are unimpeachable. These things can be attested by all the respectable part of the town and neighborhood of Fredericksburg."

Mr. John Anderson, a merchant in Fredericksburg, says, that in the year 1774, being a trader in the Indian country, he was at Pittsburg, to which place he

had a cargo brought up the river in a boat navigated by a Delaware Indian
1 and a white man. That on their return down the river, with a cargo, belonging to Messrs. Butler, Michael Cresap fired on the boat, and killed the Indian, after which two men of the name of Gatewood, and others of the name of
3 Tumblestone,* who lived on the opposite side of the river from the Indians, with whom they were on the most friendly terms, invited a party of them to come over and drink with them; and that, when the Indians were drunk, they murdered them to the number of six, among whom was Logan's mother.
4 That five other Indians uneasy at the absence of their friends, came over the river to inquire after them; when they were fired upon, and two were killed. and the others wounded. This was the origin of the war.

I certify the above to be true to the best of my recollection.

Attest DAVID BLAIR, 30th June, 1798. JOHN ANDERSON.

The Deposition of James Chambers, communicated by David Riddick, Esquire, Prothonotary of Washington county, Pennsylvania, who, in the letter enclosing it, shows that he entertains the most perfect confidence in the truth of Mr. Chambers.

WASHINGTON County, ss.

Personally came before me Samuel Shannon, Esquire, one of the Commonwealth Justices for the County of Washington in the State of Pennsylvania, James Chambers, who, being sworn according to law, deposeth and saith that in the spring of the year 1774, he resided on the frontier near Baker's bottom on the Ohio; that he had an intimate companion, with whom he sometimes lived, named Edward
2 King; that a report reached them that Michael Cresap had killed some Indians
3 near Grave Creek, friends to an Indian, known by the name of "Logan;" that other of his friends, following down the river, having received intelligence, and fearing to proceed, lest Cresap might fall in with them, encamped near the mouth of Yellow Creek, opposite Baker's bottom; that Daniel Great-house had determined to kill them; had made the secret known to the deponent's companion, King; that the deponent was earnestly solicited to be of the party, and, as an inducement, was told that they would get a great deal of plunder; and further, that the Indians would be made drunk by Baker, and that little danger would follow the expedition. The deponent refused having any hand in killing unoffending people. His companion, King, went with Great-house, with divers others, some of whom had been collected at a considerable distance under an idea that Joshua Baker's family was in danger from the Indians, as war had been commenced between Cresap and them already; that Edward King, as well as others of the party, did not conceal from the deponent the most minute circumstances of this affair; they informed him that Great-house, concealing his people, went over to the Indian encampments and counted their number, and found that they were too large a party to attack with his strength; that he then requested Joshua Baker, when any of them came to his house, (which they had been in the habit of,) to give them what rum they could drink, and to let him know when they were in a proper train,

* The popular pronunciation of Tomlinson, which was the real name.

and that he would then fall on them; that accordingly they found several men and women at Baker's house; that one of these women had cautioned Great-house, when over in the Indian camp, that he had better return home, as the Indian men were drinking, and that having heard of Cresap's attack on their relations down the river, they were angry, and, in a friendly manner, told him to go home. Great-house, with his party, fell on them, and killed all except a little girl, which the deponent saw with the party after the slaughter; that the Indians 4 in the camp hearing the firing, manned two canoes, supposing their friends at Baker's to be attacked, as was supposed; the party under Great-house prevented their landing by a well-directed fire, which did execution in the canoes; that Edward King showed the deponent one of the scalps. The deponent further saith, that the settlements near the river broke up, and he the deponent immediately repaired to Catfish's camp, and lived some time with Mr. William Huston; that not long after his arrival, Cresap, with his party, returning from the Ohio, came to Mr. Huston's and tarried some time; that in various conversations with the party, and in particular with a Mr. Smith, who had one arm 2 only, he was told that the Indians were acknowledged and known to be Logan's friends which they had killed, and that he heard the party say, that Logan would probably avenge their deaths.

They acknowledged that the Indians passed Cresap's encampment on the bank of the river in a peaceable manner, and encamped below him; that they went down and fired on the Indians and killed several; that the survivors flew to their arms and fired on Cresap, and wounded one man, whom the deponent saw carried on a litter by the party; that the Indians killed by Cresap were not 2 only Logan's relations, but of the women killed at Baker's one was said 3 and generally believed to be Logan's sister. The deponent further saith, that on the relation of the attack by Cresap on the unoffending Indians, he exclaimed in their hearing, that it was an atrocious murder; on which Mr. Smith threatened the deponent with the tomahawk; so that he was obliged to be cautious, fearing an injury, as the party appeared to have lost, in a great degree, sentiments of humanity as well as the effects of civilization. Sworn and subscribed at Washington, the 20th day of April, Anno Domini 1798.

Before SAMUEL SHANNON. JAMES CHAMBERS.

Washington County, ss.

SEAL. I, David Reddick, prothonotary of the court of common pleas, for the county of Washington in the State of Pennsylvania, do certify that Samuel Shannon, Esq., before whom the within affidavit was made, was, at the time thereof, and still is, a justice of the peace in and for the county of Washington aforesaid; and that full credit is due to all his judicial acts as such as well in courts of justice as thereout.

In testimony whereof I have hereunto set my hand and affixed the seal of my office at Washington, the 26th day of April, Anno Dom. 1798.

DAVID REDDICK.

The certificate of Charles Polke, of Shelby County, in Kentucky, communicated by the Hon. Judge Innes, of Kentucky, who in the letter enclosing it, together with Newland's certificate, and his own declaration of the information given him by Baker, says, "I am well acquainted with John Newland, he is a man of integrity. Charles Polke and Joshua Baker both support respectable characters."

About the latter end of April or beginning of May 1774, I lived on the waters of Cross creek, about sixteen miles from Joshua Baker, who lived on the Ohio, opposite the mouth of Yellow Creek. A number of persons collected at my 3 house, and proceeded to the said Baker's and murdered several Indians, among whom was a woman said to be the sister of the Indian chief, Logan. The principal leader of the party was Daniel Great-house. To the best of my recollection the cause which gave rise to the murder was a general idea that the Indians were meditating an attack on the frontiers. Capt. Michael Cresap was not of the party; but I recollect that some time before the perpetration of the 2 above fact it was currently reported that Capt. Cresap had murdered some Indians on the Ohio, one or two, some distance below Wheeling.

Certified by me, an inhabitant of Shelby county and State of Kentucky, this 15th day of November, 1799. CHARLES POLKE.

The Declaration of the Hon. Judge Innes, of Frankfort, in Kentucky.

On the 14th of November, 1799, I accidentally met upon the road Joshua Baker, the person referred to in the certificate signed by Polke, who in- 3 formed me that the murder of the Indians in 1774, opposite the mouth of Yellow Creek, was perpetrated at his house by thirty-two men, led on by Daniel Great-house; that twelve were killed and six or eight wounded; among the slain was a sister and other relations of the Indian chief, Logan. Baker says, Captain Michael Cresap was not of the party; that some days preceding 1 the murder at his house two Indians left him and were on their way home; that they fell in with Capt. Cresap and a party of land improvers on the Ohio, and were murdered, if not by Cresap himself, with his approbation; he being the leader of the party, and that he had this information from Cresap.

HARRY INNES.

The Declaration of William Robinson.

William Robinson, of Clarksburg, in the county of Harrison, and State of Virginia, subscriber to these presents, declares that he was, in the year 1774, a resident on the west fork of Monongahela river, in the county then called West Augusta, and being in his field on the 12th of July, with two other men, they were surprised by a party of eight Indians, who shot down one of the others and made himself and the remaining one prisoners; this subscriber's wife and four children

having been previously conveyed by him for safety to a fort about twenty-four miles off; that the principal Indian of the party which took them was Captain Logan; that Logan spoke English well, and very soon manifested a friendly disposition to this subscriber, and told him to be of good heart, that he would not be killed, but must go with him to his town, where he would probably be adopted in some of their families; but above all things, that he must not attempt to run away; that in the course of the journey to the Indian town he generally endeavored to keep close to Logan, who had a great deal of conversation with him, always encouraging him to be cheerful and without fear; for that he would not be killed, but should become one of them; and constantly impressing on him not to attempt to run away; that in these conversations he always charged Capt. Michael Cresap with the murder of his family; that on his arrival in the town, which was on the 18th of July, he was tied to a stake and a great debate arose whether he should not be burnt; Logan insisted on having him adopted, while others contended to burn him; that at length Logan prevailed, tied a belt of wampum round him as the mark of adoption, loosed him from the post and carried him to the cabin of an old squaw, where Logan pointed out a person who he said was this subscriber's cousin; and he afterwards understood that the old woman was his aunt, and two others his brothers, and that he now stood in the place of a warrior of the family who had been killed at Yellow Creek; that about three days after this Logan brought him a piece of paper, and told him he must write a letter for him, which he meant to carry and leave in some house where he should kill somebody; that he made ink with gun powder, and the subscriber proceeded to write the letter by his direction, addressing Captain Michael Cresap in it, and that the purport of it was, to ask "why he had killed his people? That some time before they had killed his people at some place, (the name of which the subscriber forgets,) which he had forgiven; but since that he had killed his people again at Yellow Creek, and taken his cousin, a little girl, prisoner; that therefore he must war against the whites; but that he would exchange the subscriber for his cousin." And signed it with Logan's name, which letter Logan took and set out again to war; and the contents of this letter, as recited by the subscriber, calling to mind that stated by Judge Innes to have been left, tied to a war club, in a house where a family was murdered, and that being read to the subscriber, he recognizes it, and declares he verily believes it to have been the identical letter which he wrote, and supposes he was mistaken in stating as he has done before from memory, that the offer of exchange was proposed in the letter; that it is probable that it was only promised him by Logan, but not put in the letter; while he was with the old woman, she repeatedly endeavored to make him sensible that she had been of the party at Yellow Creek, and, by signs, showed him how they decoyed her friends over the river to drink, and when they were reeling and tumbling about, tomahawked them all, and that whenever she entered on this subject she was thrown into the most violent agitations, and that he afterwards understood that, amongst the Indians killed at Yellow Creek, was a sister of Logan, very big with child, whom they ripped open, and stuck on a pole; that he continued with the Indians till the month of November, when he was released in consequence of the peace made by them with Lord Dunmore; that, while he remained with them, the Indians in general were very kind to him; and especially those who were his adopted relations; but

above all, the old woman and family in which he lived, who served him with everything in their power, and never asked, or even suffered him to do any labor, seeming in truth to consider and respect him as the friend they had lost. All which several matters and things, so far as they are stated to be of his own knowledge, this subscriber solemnly declares to be true, and so far as they are stated on information from others, he believes them to be true. Given and declared under his hand at Philadelphia, this 28th day of February, 1800.

WILLIAM ROBINSON.

The deposition of Colonel William M'Kee, of Lincoln County, Kentucky, communicated by the Hon. John Brown, one of the Senators in Congress from Kentucky.

Colonel William M'Kee of Lincoln county, declareth, that in autumn, 1774, he commanded as a captain in the Bottetourt Regiment under Colonel Andrew Lewis, afterwards General Lewis; and fought in the battle at the mouth of Kanhaway, on the 10th of October in that year. That after the battle, Colonel Lewis marched the militia across the Ohio, and proceeded towards the Shawnee towns on Sciota; but before they reached the towns, Lord Dunmore, who was Commander-in-Chief of the army, and had, with a large part thereof, been up the Ohio about Hockhockin, when the battle was fought, overtook the militia, and informed them of his having since the battle concluded a treaty with the Indians; upon which the whole army returned.

And the said William declareth that, on the evening of that day on which the junction of the troops took place, he was in company with Lord Dunmore and several of his officers, and also conversed with several who had been with Lord Dunmore at the treaty; said William, on that evening, heard repeated conversations concerning an extraordinary speech at the treaty, or sent there by a chieftain of the Indians named Logan, and heard several attempts at a rehearsal of it. The speech as rehearsed excited the particular attention of said William, and the most striking members of it were impressed on his memory.

And he declares that when Thomas Jefferson's "Notes on Virginia" were published, and he came to peruse the same, he was struck with the speech of Logan as there set forth, as being substantially the same, and accordant with the speech he heard rehearsed in the camp as aforesaid.

Signed, WILLIAM M'KEE.

DANVILLE, December 18th, 1799.

We certify that Colonel William M'Kee this day signed the original certificate, of which the foregoing is a true copy, in our presence.

JAMES SPEED, Junior.

J. H. DEWEES.

The Certificate of the Honorable Stevens Thompson Mason, one of the Senators in Congress from the State of Virginia.

"Logan's Speech, delivered at the Treaty, after the battle in which Colonel Lewis was killed in 1774."

[Here follows a copy of the speech agreeing verbatim with that printed in Dixon and Hunter's Virginia Gazette of February 4, 1775, under the Williamsburg head. At the foot is this certificate.]

"The foregoing is a copy taken by me, when a boy, at school, in the year 1775, or at farthest in 1776, and lately found in an old pocket-book, containing papers and manuscripts of that period. STEVENS THOMPSON MASON.

"January 20th, 1798."

A copy of Logan's speech, given by the late General Mercer, who fell in the battle of Trenton, January 1776, *to Lewis Willis, Esquire, of Fredericksburg, in Virginia, upwards of twenty years ago, (from the date of February* 1798,) *communicated through Mann Page, Esquire.*

"The speech of Logan, a Shawanese chief, to Lord Dunmore."

[Here follows a copy of the speech, agreeing verbatim with that in the Notes on Virginia.]

A copy of Logan's speech from the Notes on Virginia having been sent to Captain Andrew Rodgers, of Kentucky, he subjoined the following certificate.

In the year 1774 I was out with the Virginia Volunteers, and was in the battle at the mouth of Canhawee, and afterwards proceeded over the Ohio to the Indian towns. I did not hear Logan make the above speech; but from the unanimous accounts of those in camp, I have reason to think that said speech was delivered to Dunmore. I remember to have heard the very things contained in the above speech, related by some of our people in camp at that time.

ANDREW RODGERS.

The declaration of Mr. John Heckewelder, for several years a missionary from the society of Moravians, among the western Indians.

In the spring of the year 1774, at a time when the interior part of the Indian country all seemed peace and tranquil, the villagers on the Muskingum were suddenly alarmed by two runners (Indians), who reported "that the Big Knife (Virginians) had attacked the Mingo settlement, on the Ohio, and butchered even the women with their children in their arms, and that Logan's family were among the slain." A day or two after this several Mingoes made their appearance; among whom were one or two wounded, who had in this manner effected their escape. Exasperated to a high degree, after relating the particulars of this transaction, (which for humanity's sake I forbear to mention,) after resting some time on the treachery of the Big Knives, of their barbarity to those who are their friends, they gave a figurative description of the perpetrators; named Cresap as having been at the head of this murderous act. They made mention of nine being killed, and two wounded; and were prone to take revenge on any person of a white color; for which reason the missionaries had to shut themselves up during their stay. From this time terror daily increased. The exasperated friends and relations of these murdered women and children, with the

nations to whom they belonged, passed and repassed through the villages of the quiet Delaware towns, in search of white people, making use of the most abusive language to these (the Delawares), since they would not join in taking revenge. Traders had either to hide themselves, or try to get out of the country the best way they could. And even at this time, they yet found such true friends among the Indians, who, at the risk of their own lives, conducted them, with the best part of their property, to Pittsburg; although, (shameful to relate!) these benefactors were, on their return from this mission, waylaid, and fired upon by whites, while crossing Big Beaver in a canoe, and had one man, a Shawanese, named Silverheels, (a man of note in his nation,) wounded in the body. This exasperated the Shawanese so much, that they, or at least a great part of them, immediately took an active part in the cause; and the Mingoes, (nearest connected with the former,) became unbounded in their rage. A Mr. Jones, son to a respectable family of this neighborhood (Bethlehem), who was then on his passage up Muskinghum, with two other men, was fortunately espied by a friendly Indian woman, at the falls of Muskinghum; who through motives of humanity alone, informed Jones of the nature of the times, and that he was running right in the hands of the enraged; and put him on the way, where he might perhaps escape the vengeance of the strolling parties. One of Jones's men, fatigued by travelling in the woods, declared he would rather die than remain longer in this situation; and hitting accidentally on a path, he determined to follow the same. A few hundred yards decided his fate. He was met by a party of about fifteen Mingoes, (and as it happened, almost within sight of White Eyes town,) murdered, and cut to pieces; and his limbs and flesh stuck up on the bushes. White Eyes, on hearing the scalp halloo, ran immediately out with his men, to see what the matter was; and finding the mangled body in this condition, gathered the whole and buried it. But next day when some of the above party found on their return the body interred, they instantly tore up the ground, and endeavored to destroy or scatter about, the parts at a greater distance. White Eyes, with the Delawares, watching their motions, gathered and interred the same a second time. The war party finding this out, ran furiously into the Delaware village, exclaiming against the conduct of these people, setting forth the cruelty of Cresap towards women and children, and declaring at the same time, that they would, in consequence of this cruelty, serve every white man they should meet with in the same manner. Times grew worse and worse, war parties went out and took scalps and prisoners, and the latter, in hopes it might be of service in saving their lives, exclaimed against the barbarous act which gave rise to these troubles and against the perpetrators. The name of Great-house was mentioned as having been accomplice to Cresap. So detestable became the latter name among the Indians, that I have frequently heard them apply it to the worst of things; also in quieting or stilling their children, I have heard them say, hush! Cresap will fetch you; whereas otherwise, they name the Owl. The warriors having afterwards bent their course more toward the Ohio, and down the same, peace seemed with us already on the return; and this became the case soon after the decided battle fought on the Kanhaway. Traders, returning now into the Indian country again, related the story of the above-mentioned massacre, *after the same manner, and with the same words*, we have heard it related hitherto. So the report remained, and was believed by all who resided in the Indian coun-

try. So it was represented numbers of times, in the peaceable Delaware towns, by the enemy. So the christian Indians were continually told they would one day be served. With this impression, a petty chief hurried all the way from Wabash in 1779, to take his relations (who were living with the peaceable Delawares near Coshachking) out of the reach of the Big Knives, in whose friendship he never more would place any confidence. And when this man found that his numerous relations would not break friendship with the Americans, nor be removed, he took two of his relations (women) off by force, saying, "The whole crop should not be destroyed; I will have seed out of it for a new crop;" alluding to, and repeatedly reminding those of the family of Logan, who he said had been real friends to the whites, and yet were cruelly murdered by them.

In Detroit, where I arrived the same Spring, the report respecting the murder of the Indians on the Ohio (amongst whom was Logan's family) was the same as related above; and on my return to the United States in the fall of 1786, and from that time, whenever and wherever in my presence, this subject was the topic of conversation, I found the report still the same; viz. that a person, bearing the name of Cresap, was the author, or perpetrator of this deed.

Logan was the second son of Shikellemus, a celebrated chief of the Cayuga nation. This chief, on account of his attachment to the English government, was of great service to the country, having the confidence of all the Six Nations, as well as that of the English, he was very useful in settling disputes, &c., &c. He was highly esteemed by Conrad Weisser, Esq., (an officer for government in the Indian department), with whom he acted conjunctly, and was faithful unto his death. His residence was at Shamokin, where he took great delight in acts of hospitality to such of the white people whose business led them that way.* His name and fame were so high on record, that Count Zinzendorf, when in this country in 1742, became desirous of seeing him, and actually visited him at his house in Shamokin.† About the year 1772, Logan was introduced to me by an Indian friend, as son to the late reputable chief Shikellemus, and as a friend to the white people. In the course of conversation I thought him a man of superior talents than Indians generally were. The subject turning on vice and immorality, he confessed his too great share of this, especially his fondness for liquor. He exclaimed against the white people for imposing liquors upon the Indians; he otherwise admired their ingenuity; spoke of gentlemen, but observed the Indians unfortunately had but few of these as their neighbors, &c. He spoke of his friendship to the white people, wished always to be a neighbor to them, intended to settle on the Ohio, below Big Beaver; was (to the best of my recollection) then encamped at the mouth of this river, (Beaver,) urged me to pay him a visit, &c. Note. I was then living at the Moravian town on this river, in the neighborhood of Cuskuskee. In April 1773, while on my passage down the Ohio for Muskinghum, I called at Logan's settlement; where I received every civility I could expect from such of the family as were at home.

Indian reports concerning Logan, after the death of his family, ran to this; that he exerted himself during the Shawanese war, (then so called,) to take all the

* The preceding account of Shikellemus, (Logan's father,) is copied from manuscripts of the Rev. C. Pyrlœus, written between the years 1741 and 1748.

† See G. H. Hoskiel's history of the Mission of the United Brethren, &c. Part II. Chap. II Page 31.

revenge he could, declaring he had lost all confidence in the white people. At the time of negotiation, he declared his reluctance in laying down the hatchet, not having (in his opinion) yet taken ample satisfaction; yet, for the sake of the nation, he would do it. His expressions, from time to time, denoted a deep melancholy. Life (said he) had become a torment to him: he knew no more what pleasure was: he thought it had been better if he had never existed, &c., &c. Report further states, that he became in some measure delirious, declared he would kill himself, went to Detroit, drank very freely, and did not seem to care what he did, and what became of himself. In this condition he left Detroit, and on his way between that place and Miami was murdered. In October, 1781, (while as prisoner on my way to Detroit,) I was shown the spot where this should have happened. Having had an opportunity since last June of seeing the Rev. David Zeisberger, senior, missionary to the Delaware nation of Indians, who had resided among the same on Muskinghum, at the time when the murder was committed on the family of Logan, I put the following questions to him; first, who he had understood it was that had committed the murder on Logan's family? and secondly, whether he had any knowledge of a speech sent to Lord Dunmore by Logan, in consequence of this affair, &c. To which Mr. Zeisberger's answer was: That he had, from that time when this murder was committed to the present day, firmly believed the common report (which he had never heard contradicted) viz., that one Cresap was the author of the massacre; or that it was committed by his orders; and that he had known Logan as a boy, had frequently seen him from that time, and doubted not in the least, that Logan had sent such a speech to Lord Dunmore on this occasion, as he understood from me had been published; that expressions of that kind from Indians were familiar to him; that Logan in particular was a man of quick comprehension, good judgment and talents. Mr. Zeisberger has been a missionary upwards of fifty years; his age is about eighty; speaks both the language of the Onondagoes and the Delawares; resides at present on the Muskinghum, with his Indian congregation; and is beloved and respected by all who are acquainted with him. JOHN HECKEWELDER.

From this testimony the following historical statement results:

In April or May, 1774, a number of people being engaged in looking out for settlements on the Ohio, information was spread among them, that the Indians had robbed some of the land-jobbers, as those adventurers were called. Alarmed for their safety, they collected together at Wheeling Creek. *Hearing there that there were two Indians and some traders a little above Wheeling, Captain Michael Cresap, one of the party, proposed to waylay and kill them. The prop osition, though opposed, was adopted. A party went up the river, with Cresap at their head, and killed the two Indians.

† The same afternoon it was reported that there was a party of Indians on the Ohio, a little below Wheeling. Cresap and his party immediately proceeded down the river, and encamped on the bank. The Indians passed him peaceably,

* First murder of the two Indians by Cresap.
† Second murder on Grave Creek.

and encamped at the mouth of Grave Creek, a little below. Cresap and his party attacked them, and killed several. The Indians returned the fire, and wounded one of Cresap's party. Among the slain of the Indians were some of Logan's family. Colonel Zane indeed expresses a doubt of it; but it is affirmed by Huston and Chambers. Smith, one of the murderers, said they were known and acknowledged to be Logan's friends, and the party themselves generally said so; boasted of it in presence of Cresap; pretended no provocation; and expressed their expectations that Logan would probably avenge their deaths.

Pursuing these examples, *Daniel Great-house, and one Tomlinson, who lived on the opposite side of the river from the Indians, and were in habits of friendship with them, collected, at the house of Polke, on Cross Creek, about 16 miles from Baker's Bottom, a party of 32 men. Their object was to attack a hunting encampment of Indians, consisting of men, women, and children, at the mouth of Yellow Creek, some distance above Wheeling. They proceeded, and when arrived near Baker's Bottom, they concealed themselves, and Great-house crossed the river to the Indian camp. Being among them as a friend, he counted them, and found them too strong for an open attack with his force. While here, he was cautioned by one of the women not to stay, for that the Indian men were drinking, and having heard of Cresap's murder of *their relations* at Grave Creek, were angry, and she pressed him in a friendly manner, to go home; whereupon, after inviting them to come over and drink, he returned to Baker's, which was a tavern, and desired that when any of them should come to his house he would give them as much rum as they would drink. When his plot was ripe, and a sufficient number of them were collected at Baker's, and intoxicated, he and his party fell on them and massacred the whole, except a little girl, whom they preserved as a prisoner. Among these was the very woman who had saved his life, by pressing him to retire from the drunken wrath of her friends, when he was spying their camp at Yellow Creek. Either she herself, or some other of the murdered women, was the sister of Logan, very big with child, and inhumanly and indecently butchered; and there were others of his relations who fell here.

The party on the other side of the river,* alarmed for their friends at Baker's, on hearing the report of the guns, manned two canoes and sent them over. They were received, as they approached the shore, by a well-directed fire from Great-house's party, which killed some, wounded others, and obliged the rest to put back. Baker tells us there were twelve killed, and six or eight wounded.

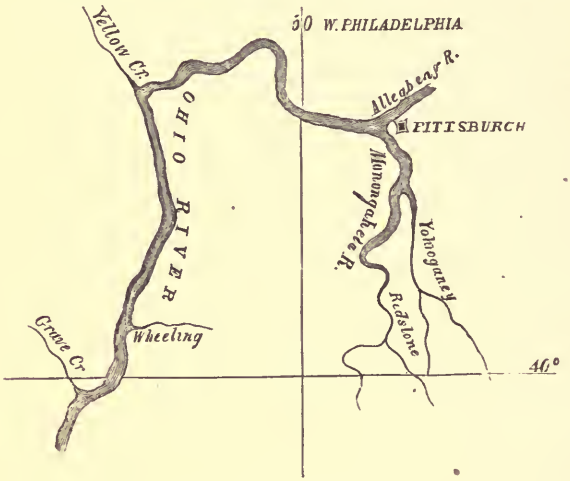
This commenced the war, of which Logan's war-club and note left in the house of a murdered family, was the notification. In the course of it, during the ensuing summer, a great number of innocent men, women, and children, fell victims to the tomahawk and scalping knife of the Indians, till it was arrested in the autumn following by the battle at Point Pleasant, and the pacification with Lord Dunmore, at which the speech of Logan was delivered.

Of the genuineness of that speech nothing need be said. It was known to the camp where it was delivered; it was given out by Lord Dunmore and his officers; it ran through the public papers of these States; was rehearsed as an exercise at schools; published in the papers and periodical works of Europe; and all this, a dozen years before it was copied into the Notes on Virginia. In fine, General Gibson concludes the question for ever, by declaring that he received it from

* Massacre at Baker's Bottom, opposite Yellow Creek, by Great-house.

Logan's hand, delivered it to Lord Dunmore, translated it for him, and that the copy in the Notes on Virginia is a faithful copy.

The popular account of these transactions, as stated in the Notes on Virginia, appears, on collecting exact information, imperfect and erroneous in its details. It was the belief of the day; but how far its errors were to the prejudice of Cresap, the reader will now judge. That he, and those under him, murdered two Indians above Wheeling; that they murdered a large number at Grave Creek, among whom were a part of the family and relations of Logan, cannot be questioned; and as little that this led to the massacre of the rest of the family at Yellow Creek. Logan imputed the whole to Cresap, in his war-note and peace-speech: the Indians generally imputed it to Cresap: Lord Dunmore and his officers imputed it to Cresap: the country, with one accord, imputed it to him: and whether he were innocent, let the universal verdict now declare.



The declaration of John Sappington, received after the publication of the preceding Appendix.

I, JOHN SAPPINGTON, declare myself to be intimately acquainted with all the circumstances respecting the destruction of Logan's family, and do give in the following narrative, a true statement of that affair:

"Logan's family (if it was his family) was not killed by Cresap, nor with his knowledge, nor by his consent, but by the Great-houses and their associates. They were killed 30 miles above Wheeling, near the mouth of Yellow Creek. Logan's camp was on one side of the river Ohio, and the house, where the murder was committed, opposite to it on the other side. They had encamped

* Fourth murder, by Great-house.

there only four or five days, and during that time had lived peaceably and neighbourly with the whites on the opposite side, until the very day the affair happened. A little before the period alluded to, letters had been received by the inhabitants from a man of great influence in that country, and who was then, I believe, at Capteener, informing them that war was at hand, and desiring them to be on their guard. In consequence of those letters and other rumors of the same import, almost all the inhabitants fled for safety into the settlements. It was at the house of one Baker the murder was committed. Baker was a man who sold rum, and the Indians had made frequent visits at his house, induced, probably, by their fondness for that liquor. He had been particularly desired by Cresap to remove and take away his rum, and he was actually preparing to move at the time of the murder. The evening before, a squaw came over to Baker's house, and by her crying seemed to be in great distress. The cause of her uneasiness being asked, she refused to tell; but getting Baker's wife alone, she told her that the Indians were going to kill her and all her family the next day, that she loved her, did not wish her to be killed, and therefore told her what was intended, that she might save herself. In consequence of this information, Baker got a number of men, to the amount of twenty-one, to come to his house, and they were all there before morning. A council was held, and it was determined that the men should lie concealed in the back apartment; that if the Indians did come, and behaved themselves peaceably, they should not be molested; but if not, the men were to show themselves, and act accordingly. Early in the morning, seven Indians, four men and three squaws, came over. Logan's brother was one of them. They immediately got rum, and all, except Logan's brother, became very much intoxicated. At this time all the men were concealed, except the man of the house, Baker, and two others who staid out with him. Those Indians came unarmed. After some time Logan's brother took down a coat and hat, belonging to Baker's brother-in-law, who lived with him, and put them on, and setting his arms a-kimbo, began to strut about, till at length coming up to one of the men, he attempted to strike him, saying, "White man, son of a bitch." The white man, whom he treated thus, kept out of his way for some time; but growing irritated, he jumped to his gun, and shot the Indian as he was making to the door with the coat and hat on him. The men who lay concealed then rushed out, and killed the whole of them, excepting one child, which I believe is alive yet. But before this happened, one with two, the other with five Indians, all naked, painted, and armed completely for war, were discovered to start from the shore on which Logan's camp was. Had it not been for this circumstance, the white men would not have acted as they did; but this confirmed what the squaw had told before. The white men, having killed, as aforesaid, the Indians in the house, ranged themselves along the bank of the river, to receive the canoes. The canoe with the two Indians came near, being the foremost. Our men fired upon them and killed them both. The other canoe then went back. After this, two other canoes started, the one containing eleven, the other seven, Indians, painted and armed as the first. They attempted to land below our men, but were fired upon; had one killed, and retreated, at the same time firing back. To the best of my recollection there were three of the Great-houses engaged in this business. This is a true representation of the affair from beginning to end. I was intimately acquainted with Cresap, and know he had no hand in that trans-

action. He told me himself afterwards, at Redstone Old Fort, that the day before Logan's people were killed, he, with a small party, had an engagement with a party of Indians on Capteener, about forty-four miles lower down. Logan's people were killed at the mouth of Yellow Creek, on the 24th of May, 1774; and the 23d, the day before, Cresap was engaged as already stated. I know, likewise, that he was generally blamed for it, and believed by all who were not acquainted with the circumstances to have been the perpetrator of it. I know that he despised and hated the Great-houses ever afterwards on account of it. I was intimately acquainted with General Gibson, and served under him during the late war, and I have a discharge from him now lying in the land-office at Richmond, to which I refer any person for my character, who might be disposed to scruple my veracity. I was likewise at the treaty held by Lord Dunmore with the Indians, at Chelicothe. As for the speech said to have been delivered by Logan on that occasion, it might have been, or might not, for anything I know, as I never heard of it till long afterwards. I do not believe that Logan had any relations killed, except his brother. Neither of the squaws who were killed was his wife. Two of them were old women, and the third, with her child, which was saved, I have the best reason in the world to believe was the wife and child of General Gibson. I know he educated the child, and took care of it, as if it had been his own. Whether Logan had a wife or not, I can't say; but it is probable that as he was a chief, he considered them all as his people. All this I am ready to be qualified to at any time. JOHN SAPPINGTON.

Attest, SAMUEL M'KEE, Junr.

Madison County, Feb. 13th, 1800.

I do certify further, that the above-named John Sappington told me, at the same time and place at which he gave me the above narrative, that he himself was the man who shot the brother of Logan in the house, as above-related, and that he likewise killed one of the Indians in one of the canoes, which came over from the opposite shore.

He likewise told me, that Cresap never said an angry word to him about the matter, although he was frequently in company with Cresap, and indeed had been, and continued to be, in habits of intimacy with that gentleman, and was always befriended by him on every occasion. He further told me, that after they had perpetrated the murder, and were flying into the settlement, he met with Cresap (if I recollect right, at Redstone Old Fort); and gave him a scalp, a very large fine one, as he expressed it, and adorned with silver. This scalp, I think he told me, was the scalp of Logan's brother; though as to this I am not absolutely certain. Certified by SAMUEL M'KEE, Junr.

PART II.

BIOGRAPHICAL SKETCHES OF DISTINGUISHED MEN.

BIOGRAPHICAL SKETCH OF PEYTON RANDOLPH.

Peyton Randolph was the eldest son of Sir John Randolph, of Virginia, a barrister at law, and an eminent practitioner at the bar of the General Court. Peyton was educated at the College of William and Mary in Williamsburg, and thence went to England, and studied law at the Temple. At his return he intermarried with Elizabeth Harrison, sister of the afterwards Governor Harrison, entered into practice in the General Court, was afterwards appointed the king's Attorney General for the colony, and became a representative in the House of Burgesses (then so called) for the city of Williamsburg.

Governor Dinwiddie having, about this period, introduced the exaction of a new fee on his signature of grants for lands, without the sanction of any law, the House of Burgesses remonstrated against it, and sent Peyton Randolph to England, as their agent to oppose it before the king and council. The interest of the governor, as usual, prevailed against that of the colony, and his new exaction was confirmed by the king.

After Braddock's defeat on the Monongahela, in 1755, the incursions of the Indians on our frontiers spread panic and dismay through the whole country, insomuch that it was scarcely possible to procure men, either as regulars or militia, to go against them. To counteract this terror and to set good example, a number of the wealthiest individuals of the colony, and the highest stand-

ing in it, in public as well as in their private relations, associated under obligations to furnish each of them two able-bodied men, at their own expense, to form themselves into a regiment under the denomination of the Virginia Blues, to join the colonial force on the frontier, and place themselves under its commander, George Washington, then a colonel. They appointed William Byrd, a member of the council, colonel of the regiment, and Peyton Randolph, I think, had also some command. But the original associators had more the will than the power of becoming effective soldiers. Born and bred in the lap of wealth, all the habits of their lives were of ease, indolence and indulgence. Such men were little fitted to sleep under tents, and often without them, to be exposed to all the intemperances of the seasons, to swim rivers, range the woods, climb mountains, wade morasses, to skulk behind trees, and contend as sharp shooters with the savages of the wilderness, who in all the scenes and exercises would be in their natural element. Accordingly, the commander was more embarrassed with their care, than reinforced by their service. They had the good fortune to see no enemy, and to return at the end of the campaign rewarded by the favor of the public for this proof of their generous patriotism and good will.

When afterwards, in 1764, on the proposal of the Stamp Act, the House of Burgesses determined to send an address against it to the king, and memorials to the Houses of Lord and Commons, Peyton Randolph, George Wythe, and (I think) Robert C. Nicholas, were appointed to draw these papers. That to the king was by Peyton Randolph, and the memorial to the Commons was by George Wythe. It was on the ground of these papers that those gentlemen opposed the famous resolutions of Mr. Henry in 1765, to wit, that the principles of these resolutions had been asserted and maintained in the address and memorials of the year before, to which an answer was yet to be expected.

On the death of the speaker, Robinson, in 1766, Peyton Randolph was elected speaker. He resigned his office of Attorney General, in which he was succeeded by his brother Randolph, father of the late Edmund Randolph, and retired from the bar. He now devoted himself solely to his duties as a legislator, and

although sound in his principles, and going steadily with us in opposition to the British usurpations, he, with the other older members, yielded the lead to the younger, only tempering their ardor, and so far moderating their pace as to prevent their going too far in advance of the public sentiment.

On the establishment of a committee by the legislature, to correspond with the other colonies, he was named their chairman, and their first proposition to the other colonies was to appoint similar committees, who might consider the expediency of calling a general Congress of deputies in order to procure a harmony of procedure among the whole. This produced the call of the first Congress, to which he was chosen a delegate, by the House of Burgesses, and of which he was appointed, by that Congress, its president.

On the receipt of what was called Lord North's conciliatory proposition, in 1775, Lord Dunmore called the General Assembly and laid it before them. Peyton Randolph quitted the chair of Congress, in which he was succeeded by Mr. Hancock, and repaired to that of the House which had deputed him. Anxious about the tone and spirit of the answer which should be given (because being the first it might have effect on those of the other colonies), and supposing that a younger pen would be more likely to come up to the feelings of the body he had left, he requested me to draw the answer, and steadily supported and carried it through the House, with a few softenings only from the more timid members.

After the adjournment of the House of Burgesses he returned to Congress, and died there of an apolexy, on the 22d of October following, aged, as I should conjecture, about fifty years.

He was indeed a most excellent man; and none was ever more beloved and respected by his friends. Somewhat cold and coy towards strangers, but of the sweetest affability when ripened into acquaintance. Of attic pleasantry in conversation, always good humored and conciliatory. With a sound and logical head, he was well read in the law; and his opinions when consulted, were highly regarded, presenting always a learned and sound view of the subject, but generally, too, a listlessness to go into its

thorough development; for being heavy and inert in body, he was rather too indolent and careless for business, which occasioned him to get a smaller proportion of it at the bar than his abilities would otherwise have commanded. Indeed, after his appointment as Attorney General, he did not seem to court, nor scarcely to welcome business. In that office he considered himself equally charged with the rights of the colony as with those of the crown; and in criminal prosecutions exaggerating nothing, he aimed at a candid and just state of the transaction, believing it more a duty to save an innocent than to convict a guilty man. Although not eloquent, his matter was so substantial that no man commanded more attention, which, joined with a sense of his great worth, gave him a weight in the House of Burgesses which few ever attained. He was liberal in his expenses, but correct also, so as not to be involved in pecuniary embarrassments; and with a heart always open to the amiable sensibilities of our nature, he did as many good acts as could have been done with his fortune, without injuriously impairing his means of continuing them. He left no issue, and gave his fortune to his widow and nephew, the late Edmund Randolph.

BIOGRAPHICAL SKETCH OF MERIWETHER LEWIS.*

Meriwether Lewis, late Governor of Louisiana, was born on the 18th of August, 1774, near the town of Charlottesville, in the county of Albemarle, in Virginia, of one of the distinguished

* TO MR. PAUL ALLEN, PHILADELPHIA.

Monticello, April 13, 1813.

Sir,—In compliance with the request conveyed in your letter of May 25th, I have endeavored to obtain from the relations and friends of the late Governor Lewis, information of such incidents of his life as might be not unacceptable to those who may read the narrative of his western discoveries. The ordinary occurrences of a private life, and those also while acting in a subordinate sphere in the army, in a time of peace, are not deemed sufficiently interesting to occupy the public attention; but a general account of his parentage, with such smaller incidents as marked early character, are briefly noted, and to these are added, as being peculiarly within my own knowledge, whatever related to the public mission, of which an account is not to be published. The result of my inquiries

families of that State. John Lewis, one of his father's uncles, was a member of the King's Council before the revolution; another of them, Fielding Lewis, married a sister of General Washington. His father, William Lewis, was the youngest of five sons of Colonel Robert Lewis of Albemarle, the fourth of whom, Charles, was one of the early patriots who stepped forward in the commencement of the revolution, and commanded one of the regiments first raised in Virginia, and placed on continental establishment. Happily situated at home with a wife and young family, and a fortune placing him at ease, he left all to aid in the liberation of his country from foreign usurpations, then first unmasking their ultimate end and aim. His good sense, integrity, bravery, enterprise and remarkable bodily powers, marked him an officer of great promise; but he unfortunately died early in the revolution. Nicholas Lewis, the second of his father's brothers, commanded a regiment of militia in the successful expedition of 1776, against the Cherokee Indians, who, seduced by the agents of the British government to take up the hatchet against us, had committed great havoc on our southern frontier, by murdering and scalping helpless women and children according to their cruel and cowardly principles of warfare. The chastisement they then received closed the history of their wars, prepared them for receiving the elements of civilization, which, zealously inculcated by the present government of the United States, have rendered them an industrious, peaceable and happy people. This member of the family of Lewises, whose bravery was so usefully proved on this occasion, was endeared to all who knew him by his inflexible probity, courteous disposition, benevolent heart, and engaging modesty and manners. He was the umpire of all the private differences of his county, selected always by both parties. He was also the guardian of Meriwether Lewis, of whom we are now to speak, and who had lost his father at an early age. He continued some years under the fostering care of a tender mother, of the respectable family of

and recollections shall now be offered, to be enlarged or abridged as you may think best, or otherwise to be used with the materials you may have collected from other sources.

Meriwethers of the same county, and was remarkable even in his infancy for enterprise, boldness and discretion. When only eight years of age, he habitually went out, in the dead of the night, alone with his dogs, into the forest to hunt the raccoon and opossum, which, seeking their food in the night, can then only be taken. In this exercise no season or circumstance could obstruct his purpose, plunging through the winter's snows and frozen streams in pursuit of his object. At thirteen, he was put to the Latin school, and continued at that until eighteen, when he returned to his mother, and entered on the cares of his farm, having, as well as a younger brother, been left by his father with a competency for all the correct and comfortable purposes of temperate life. His talent for observation, which had led him to an accurate knowledge of the plants and animals of his own county, would have distinguished him as a farmer; but at the age of twenty, yielding to the ardor of youth, and a passion for more dazzling pursuits, he engaged as a volunteer in the body of militia which were called out by General Washington, on occasion of the discontents produced by the excise taxes in the western parts of the United States; and from that situation he was removed to the regular service as a lieutenant in the line. At twenty-three he was promoted to a captaincy; and always attracting the first attention where punctuality and fidelity were requisite, he was appointed paymaster to his regiment. About this time a circumstance occurred which, leading to the transaction which is the subject of this book, will justify a recurrence to its original idea. While I resided in Paris, John Ledyard of Connecticut arrived there, well known in the United States for energy of body and mind. He had accompanied Captain Cook in his voyage to the Pacific ocean, and distinguished himself on that voyage by his intrepidity. Being of a roaming disposition, he was now panting for some new enterprise. His immediate object at Paris was to engage a mercantile company in the fur trade of the western coast of America, in which, however, he failed. I then proposed to him to go by land to Kamschatka, cross in some of the Russian vessels to Nootka Sound, fall down into the latitude of the Missouri, and penetrate to and through

that to the United States. He eagerly seized the idea, and only asked to be assured of the permission of the Russian government. I interested in obtaining that M. de Simoulin, M. P. of the Empress at Paris, but more especially the Baron de Grimm, M. P. of Saxe-Gotha, her more special agent and correspondent there, in matters not immediately diplomatic. Her permission was obtained, and an assurance of protection while the course of the voyage should be through her territories. Ledyard set out from Paris and arrived at St. Petersburg after the Empress had left that place to pass the winter (I think) at Moscow. His finances not permitting him to make unnecessary stay at St. Petersburg, he left it with a passport from one of the ministers, and at two hundred miles from Kamschatka, was obliged to take up his winter quarters. He was preparing in the spring to resume his journey, when he was arrested by an officer of the Empress, who, by this time, had changed her mind, and forbidden his proceeding. He was put into a close carriage and conveyed day and night, without ever stopping, till they reached Poland, where he was set down and left to himself. The fatigue of this journey broke down his constitution, and when he returned to Paris, his bodily strength was much impaired. His mind, however, remained firm; and after this he undertook the journey to Egypt. I received a letter from him, full of sanguine hopes, dated at Cairo, the 15th of November, 1788, the day before he was to set out for the head of the Nile, on which day, however, he ended his career and life; and thus failed the first attempt to explore the western part of our northern continent.

In 1792 I proposed to the A. P. S., that we should set on foot a subscription to engage some competent person to explore that region in the opposite direction, that is, by ascending the Missouri, crossing the Stony mountains, and descending the nearest river to the Pacific. Captain Lewis being then stationed at Charlottesville on the recruiting service, warmly solicited me to obtain for him the execution of that object. I told him it was proposed that the person engaged should be attended by a single companion only, to avoid exciting alarm among the Indians. This did not deter him. But Mr. André Michaux, a

professed botanist, author of the "*Flora Boreali-Americana*," and of the "*Histoire des chenes d'Amerique*," offering his services, they were accepted. He received his instructions, and when he had reached Kentucky in the prosecution of his journey, he was overtaken by an order from the minister of France then at Philadelphia, to relinquish the expedition, and to pursue elsewhere the Botanical inquiries on which he was employed by that government; and thus failed the second attempt for exploring that region.

In 1803, the act for establishing trading houses with the Indian tribes being about to expire, some modifications of it were recommended to Congress by a confidential message of January 18th, and an extension of its views to the Indians on the Missouri. In order to prepare the way, the message proposed the sending an exploring party to trace the Missouri to its source, to cross the highlands and follow the best water communication which offered itself from thence to the Pacific ocean. Congress approved the proposition, and voted a sum of money for carrying it into execution. Captain Lewis, who had then been near two years with me as private secretary, immediately renewed his solicitations to have the direction of the party. I had now had opportunities of knowing him intimately. Of courage undaunted, possessing a firmness and perseverance of purpose which nothing but impossibilities could divert from its direction, careful as a father of those committed to his charge, yet steady in the maintenance of order and discipline, intimate with the Indian character, customs and principles. Habituated to the hunting life, guarded by exact observation of the vegetables and animals of his own country, against losing time in the description of objects already possessed, honest, disinterested, liberal, of sound understanding, and a fidelity to truth so scrupulous that whatever he should report would be as certain as if seen by ourselves, with all these qualifications as if selected and implanted by nature in one body, for this express purpose, I could have no hesitation in confiding the enterprise to him. To fill up the measure desired, he wanted nothing but a greater familiarity with the technical language of the natural sciences, and readiness in the astro-

nomical observations necessary for the geography of his route. To acquire these he repaired immediately to Philadelphia, and placed himself under the tutorage of the distinguished professors of that place, who, with a zeal and emulation, enkindled by an ardent devotion to science, communicated to him freely the information requisite for the purposes of the journey. While attending to at Lancaster, the fabrication of the arms with which he chose that his men should be provided, he had the benefit of daily communication with Mr. Andrew Ellicott, whose experience in astronomical observation and practice of it in the woods, enabled him to apprize Captain Lewis of the wants and difficulties he would encounter, and of the substitutes and resources offered by a woodland and uninhabited country. Deeming it necessary he should have some person with him of known competence to the direction of the enterprise, and to whom he might confide it, in the event of accident to himself, he proposed William Clarke, brother of General George Rogers Clarke, who was approved, and with that view received a commission of captain.

In April, 1803, a draught of his instructions was sent to Captain Lewis, and on the 20th of June they were signed in the following form:

"To Meriwether Lewis, Esquire, Captain of the 1st regiment of infantry of the United States of America:

"Your situation as Secretary of the President of the United States has made you acquainted with the objects of my confidential message of January 18th, 1803, to the legislature; you have seen the act they passed, which, though expressed in general terms, was meant to sanction those objects, and you are appointed to carry them into execution.

"Instruments for ascertaining by celestial observations, the geography of the country through which you will pass, have been already provided. Light articles for barter and presents among the Indians, arms for your attendants, say for from ten to twelve men, boats, tents and other travelling apparatus, with ammunition, medicine, surgical instruments and provisions, you will have prepared with such aids as the Secretary at War can yield in his departments; and from him also you will receive au-

thority to engage among our troops, by voluntary agreement, the number of attendants above mentioned, over whom you, as their commanding officer, are invested with all the powers the laws give in such a case.

"As your movements while within the limits of the United States will be better directed by occasional communications, adapted to circumstances as they arise, they will not be noticed here. What follows will respect your proceedings after your departure from the United States.

"Your mission has been communicated to the ministers here from France, Spain and Great Britain, and through them to their governments; and such assurances given them as to its objects, as we trust will satisfy them. The country of Louisiana having been ceded by Spain to France, the passport you have from the minister of France, the representative of the present sovereign of that country, will be a protection with all its subjects; and that from the minister of England will entitle you to the friendly aid of any traders of that allegiance with whom you may happen to meet.

"The object of your mission is to explore the Missouri river, and such principal streams of it, as, by its course and communication with the waters of the Pacific ocean, whether the Columbia, Oregon, Colorado, or any other river, may offer the most direct and practicable water communication across the continent for the purposes of commerce.

"Beginning at the mouth of the Missouri, you will take observations of latitude and longitude at all remarkable points on the river, and especially at the mouths of rivers, at rapids, at islands, and other places and objects distinguished by such natural marks and characters of a durable kind as that they may with certainty be recognized hereafter. The courses of the river between these points of observation may be supplied by the compass, the log-line and by time, corrected by the observations themselves. The variations of the compass too, in different places, should be noticed.

"The interesting points of the portage between the heads of the Missouri, and of the water offering the best communication

with the Pacific ocean, should also be fixed by observation, and the course of that water to the ocean, in the same manner as that of the Missouri.

"Your observations are to be taken with great pains and accuracy, to be entered distinctly and intelligibly for others as well as yourself, to comprehend all the elements necessary, with the aid of the usual tables, to fix the latitude and longitude of the places at which they were taken, and are to be rendered to the war office, for the purpose of having the calculations made concurrently by proper persons within the United States. Several copies of these as well as of your other notes should be made at leisure times, and put into the care of the most trust-worthy of your attendants, to guard, by multiplying them, against the accidental losses to which they will be exposed. A further guard would be that one of these copies be on the paper of the birch, as less liable to injury from damp than common paper.

"The commerce which may be carried on with the people inhabiting the line you will pursue, renders a knowledge of those people important. You will, therefore, endeavor to make yourself acquainted, as far as a diligent pursuit of your journey shall admit, with the names of the nations and their numbers; the extent of their possessions; their relations with other tribes or nations; their language, traditions, monuments; their ordinary occupations in agriculture, fishing, hunting, war, arts, and the implements for these; their food, clothing and domestic accomodations; the diseases prevalent among them, and the remedies they use; moral and physical circumstances which distinguish them from the tribes we know; peculiarities in their laws, customs and dispositions; and articles of commerce they may need or furnish, and to what extent; and, considering the interest which every nation has in extending and strengthening the authority of reason and justice among the people around them, it will be useful to acquire what knowledge you can of the state of morality, religion, and information among them, as it may better enable those who may endeavor to civilize and instruct them, to adopt their measures to the existing notions and practices of those on whom they are to operate."

"Other objects worthy of notice will be, the soil and face of the country, its growth and vegetable productions, especially those not of the United States, the animals of the country generally, and especially those not known in the United States; the remains and accounts of any which may be deemed rare or extinct; the mineral productions of every kind, but particularly metals, lime-stone, pit-coal and salt-petre; salines and mineral waters, noting the temperature of the last, and such circumstances as may indicate their character; volcanic appearances; climate, as characterized by the thermometer, by the proportion of rainy, cloudy, and clear days, by lightning, hail, snow, ice, by the access and recess of frost, by the winds prevailing at different seasons, the dates at which particular plants put forth or lose their flower or leaf, times of appearance of particular birds, reptiles or insects.

"Although your route will be along the channel of the Missouri, yet you will endeavor to inform yourself, by inquiry, of the character and extent of the country watered by its branches, and especially on its southern side. The north river, or Rio Bravo, which runs into the Gulf of Mexico, and the north river, or Rio Colorado, which runs into the Gulf of California, are understood to be the principal streams heading opposite to the waters of the Missouri, and running southwardly. Whether the dividing grounds between the Missouri and them are mountains or flat lands, what are their distance from the Missouri, the character of the intermediate country, and the people inhabiting it, are worthy of particular inquiry. The northern waters of the Missouri are less to be inquired after, because they have been ascertained to a considerable degree, and are still in a course of ascertainment by English traders and travellers. But if you can learn anything certain of the most northern source of the Mississippi, and of its position relatively to the lake of the woods, it will be interesting to us. Some account, too, of the path of the Canadian traders from the Mississippi, at the mouth of the Ouisconsing to where it strikes the Missouri, and of the soil and rivers in its course, is desirable.

"In all your intercourse with the natives, treat them in the most

friendly and conciliatory manner which their own conduct will admit; allay all jealousies as to the object of your journey, satisfy them of its innocence; make them acquainted with the position, extent, character, peaceable and commercial dispositions of the United States, of our wish to be neighborly, friendly and useful to them, and of our dispositions to a commercial intercourse with them; confer with them on the points most convenient as mutual emporiums, and the articles of most desirable interchange for them and us. If a few of their influential chiefs within practicable distance, wish to visit us, arrange such a visit with them, and furnish them with authority to call on our officers, on their entering the United States, to have them conveyed to this place at the public expense. If any of them should wish to have some of their young people brought up with us, and taught such arts as may be useful to them, we will receive, instruct, and take care of them. Such a mission, whether of influential chiefs or of young people, would give some security to your own party. Carry with you some matter of the kine pox; inform those of them with whom you may be, of its efficacy as a preservative from the small pox; and instruct and encourage them in the use of it. This may be especially done wherever you winter.

"As it is impossible for us to foresee in what manner you will be received by those people, whether with hospitality or hostility, so is it impossible to prescribe the exact degree of perseverance with which you are to pursue your journey. We value too much the lives of citizens to offer them to probable destruction. Your numbers will be sufficient to secure you against the unauthorized opposition of individuals or of small parties; but if a superior force, authorized or not authorized by a nation, should be arrayed against your further passage, and inflexibly determined to arrest it, you must decline its farther pursuit, and return. In the loss of yourselves, we should lose also the information you will have acquired. By returning safely with that, you may enable us to renew the essay with better calculated means. To your own discretion, therefore, must be left the degree of danger you may risk, and the point at which you should decline, only saying we wish you to err on the side of your safety, and to

bring us back your party safe, even if it be with less information.

"Should you reach the Pacific ocean, inform yourself of the circumstances which may decide whether the furs of those parts may not be collected as advantageously at the head of the Missouri (convenient as is supposed to the waters of the Colorado and Oregon or Columbia), as at Nootka Sound, or any other point of that coast; and that trade be consequently conducted through the Missouri and United States more beneficially than by the circumnavigation now practised.

"As far up the Missouri as the white settlements extend, an intercourse will probably be found to exist between them and the Spanish posts of St. Louis opposite Cahokia, or St. Genevieve opposite Kaskaskia. From still further up the river, the traders may furnish a conveyance for letters. Beyond that, you may perhaps be able to engage Indians to bring letters for the government to Cahokia or Kaskaskia, on promising that they shall there receive such special compensation as you shall have stipulated with them. Avail yourself of these means to communicate to us, at seasonable intervals, a copy of your journal, notes, and observations, of every kind, putting into cypher whatever might do injury if betrayed.

"On your arrival on that coast, endeavor to learn if there be any post within your reach frequented by the sea vessels of any nation, and to send two of your trusty people back by sea, in such way as shall appear practicable, with a copy of your notes; and should you be of opinion that the return of your party by the way they went will be imminently dangerous, then ship the whole, and return by sea, by the way either of Cape Horn or the Cape of Good Hope, as you shall be able. As you will be without money, clothes, or provisions, you must endeavor to use the credit of the United States to obtain them, for which purpose open letters of credit shall be furnished you, authorizing you to draw on the executive of the United States, or any of its officers, in any part of the world, on which draughts can be disposed of, and to apply with our recommendations to the consuls, agents, merchants, or citizens of any nation with which we have inter-

course, assuring them in our name, that any aids they may furnish you, shall be honorably repaid, and on demand. Our consuls, Thomas Hewes at Batavia in Java, William Buchanan in the Isles of France and Bourbon, and John Elmslie at the Cape of Good Hope, will be able to supply your necessities by draughts on us.

"Should you find it safe to return by the way you go, after sending two of your party round by sea, or with your whole party, if no conveyance by sea can be found, do so; making such observations on your return, as may serve to supply, correct, or confirm those made on your outward journey.

"On re-entering the United States and reaching a place of safety, discharge any of your attendants who may desire and deserve it, procuring for them immediate payment of all arrears of pay and clothing which may have incurred since their departure, and assure them that they shall be recommended to the liberality of the legislature for the grant of a soldier's portion of land each, as proposed in my message to Congress; and repair yourself with your papers to the seat of government.

"To provide in the accident of your death, against anarchy, dispersion and the consequent danger to your party, and total failure of the enterprise, you are hereby authorized, by any instrument signed and written in your own hand, to name the person among them who shall succeed to the command on your decease, and by like instruments to change the nomination from time to time as further experience of the characters accompanying you shall point out superior fitness; and all the powers and authorities given to yourself are, in the event of your death, transferred to, and vested in the successor so named, with further power to him, and his successors in like manner, to name each his successor, who, on the death of his predecessor, shall be invested with all the powers and authorities given to yourself.

"Given under my hand at the city of Washington, this 20th day of June, 1803.

"THOMAS JEFFERSON, President of the U. States of America."

While these things were going on here, the country of Louis-

iana, lately ceded by Spain to France, had been the subject of negotiation between us and this last power; and had actually been transferred to us by treaties executed at Paris on the 30th of April. This information, received about the 1st day of July, increased infinitely the interest we felt in the expedition, and lessened the apprehensions of interruption from other powers. Everything in this quarter being now prepared, Captain Lewis left Washington on the 5th of July, 1803, and proceeded to Pittsburg, where other articles had been ordered to be provided for him. The men, too, were to be selected from the military stations on the Ohio. Delays of preparation, difficulties of navigation down the Ohio, and other untoward obstructions, retarded his arrival at Cahokia until the season was so far advanced as to render it prudent to suspend his entering the Missouri before the ice should break up in the succeeding spring. From this time his journal, now published, will give the history of his journey to and from the Pacific ocean, until his return to St. Louis on the 23d of September, 1806. Never did a similar event excite more joy through the United States.

The humblest of its citizens had taken a lively interest in the issue of this journey, and looked forward with impatience for the information it would furnish. Their anxieties, too, for the safety of the corps had been kept in a state of excitement by lugubrious rumors, circulated from time to time on uncertain authorities, and uncontradicted by letters or other direct information from the time they had left the Mandan towns on their ascent up the river in April of the preceding year, 1805, until their actual return to St. Louis.

It was the middle of Feb. 1807, before Capt. Lewis with his companion Clarke reached the city of Washington, where Congress was then in session. That body granted to the two chiefs and their followers, the donation of lands which they had been encouraged to expect in reward of their toils and dangers. Capt. Lewis was soon after appointed Governor of Louisiana, and Capt. Clarke a General of its militia, and agent of the United States for Indian affairs in that department.

A considerable time intervened before the Governor's arrival

at St. Louis. He found the territory distracted by feuds and contentions among the officers of the government, and the people themselves divided by these into factions and parties. He determined at once to take no sides with either, but to use every endeavor to conciliate and harmonize them. The even-handed justice he administered to all soon established a respect for his person and authority, and perseverance and time wore down animosities, and reunited the citizens again into one family.

Governor Lewis had from early life been subject to hypocondriac affections. It was a constitutional disposition in all the nearer branches of the family of his name, and was more immediately inherited by him from his father. They had not, however, been so strong as to give uneasiness to his family. While he lived with me in Washington, I observed at times sensible depressions of mind, but knowing their constitutional source, I estimated their course by what I had seen in the family. During his western expedition, the constant exertion which that required of all the faculties of body and mind, suspended these distressing affections; but after his establishment at St. Louis in sedentary occupations, they returned upon him with redoubled vigor, and began seriously to alarm his friends. He was in a paroxysm of one of these when his affairs rendered it necessary for him to go to Washington. He proceeded to the Chickasaw bluffs, where he arrived on the 15th of September, 1809, with a view of continuing his journey thence by water. Mr. Neely, agent of the United States with the Chickasaw Indians, arriving there two days after, found him extremely indisposed, and betraying at times some symptoms of a derangement of mind. The rumors of a war with England, and apprehensions that he might lose the papers he was bringing on, among which were the vouchers of his public accounts, and the journals and papers of his western expedition, induced him here to change his mind, and to take his course by land through the Chickasaw country. Although he appeared somewhat relieved, Mr. Neely kindly determined to accompany and watch over him. Unfortunately, at their encampment, after having passed the Tennessee one day's journey, they lost two horses, which obliging Mr. Neely to halt

for their recovery, the Governor proceeded under a promise to wait for him at the house of the first white inhabitant on his road. He stopped at the house of a Mr. Grinder, who, not being at home, his wife, alarmed at the symptoms of derangement she discovered, gave him up the house, and retired to rest herself in an out-house; the Governor's and Neely's servants lodging in another. About 3 o'clock in the night he did the deed which plunged his friends into affliction, and deprived his country of one of her most valued citizens, whose valor and intelligence would have been now employed in avenging the wrongs of his country, and in emulating by land the splendid deeds which have honored her arms on the ocean. It lost, too, to the nation the benefit of receiving from his own hand the narrative now offered them of his sufferings and successes in endeavoring to extend for them the boundaries of science, and to present to their knowledge that vast and fertile country which their sons are destined to fill with arts, with science, with freedom and happiness.

To this melancholy close of the life of one whom posterity will declare not to have lived in vain, I have only to add that all the facts I have stated, are either known to myself, or communicated by his family or others, for whose truth I have no hesitation to make myself responsible; and I conclude with tendering you the assurances of my respect and consideration.

BIOGRAPHICAL SKETCH OF GENERAL KOSCIUSKO.

1. *Circumstances relating to General Kosciusko previously to his joining the American Army.* Kosciusko was born in the Grand Duchy of Silliciania in the year 1752. His family was noble, and his patrimony considerable; circumstances which he justly appreciated, for as belonging to himself they were never matters of boasting, and rarely subjects of notice, and as the property of others only regarded as advantages when accompanied by good sense and good morals. The workings of his mind on the subject of civil liberty were early and vigorous; before he was twenty the vassalage of his

serfs filled him with abhorrence, and the first act of his manhood was to break their fetters.

In the domestic quarrel between the king and the dissidents in 1761, he was too young to take a part, but the partition of Poland in 1772 (of which this quarrel was one of the pretences), engaged him in the defence of his country, and soon made him sensible of the value of military education, which he afterwards sought in the schools of Paris. It was there and while prosecuting this object, that he first became acquainted with the name of America, and the nature of the war in which the British colonies were then engaged with the mother country. In the summer of 1776 he embarked for this country, and in October of that year was appointed by Congress a Colonel of Engineers.

2. *Services of the General during the war.* In the spring of 1777 he joined the northern army, and in July following the writer of this notice left him on Lake Champlain engaged in strengthening our works at Ticonderoga and Mount Independence. The unfortunate character of the early part of this campaign is sufficiently known. In the retreat of the American army Kosciusko was distinguished for activity and courage, and upon him devolved the choice of camps and posts and everything connected with fortifications. The last frontier taken by the army while commanded by Gen. Schuyler was on an island in the Hudson near the mouth of the Mohawk river, and within a few miles of Albany. Here Gates, who had superseded Schuyler, found the army on the —— day of August. Public feeling and opinion were strikingly affected by the arrival of this officer, who gave it a full and lasting impression by ordering the army to advance upon the enemy. The state of things at that moment are well and faithfully expressed by that distinguished officer, Col. Udney Hay, in a letter to a friend. "Fortune," says he, "as if tired of persecuting us, had began to change, and Burgoyne had suffered materially on both his flanks. But these things were not of our doing; the main army, as it was called, was hunted from post to pillar, and dared not to measure its strength with the enemy; much was wanting to reinspire it with confidence in itself, with that self-respect with-

out which an army is but a flock of sheep, a proof of which is found in the fact, that we have thanked in general orders a detachment double the force of that of the enemy, for having dared to return their fire. From this miserable state of despondency and terror, Gates' arrival raised us, as if by magic. We began to hope and then to act. Our first step was to Stillwater, and we are now on the heights called Bhemus', looking the enemy boldly in the face. Kosciusko has selected this ground, and has covered its weak point (its right) with redoubts from the hill to the river." In front of this camp thus fortified two battles were fought, which eventuated in the retreat of the enemy and his surrender at Saratoga!

The value of Colonel Kosciusko's services during this campaign, and that of 1778, will be found in the following extract from a letter of General Gates written in the spring of 1780:

"My dear friend: After parting with you at Yorktown, I got safely to my own fireside, and without inconvenience of any kind, excepting sometimes cold toes and cold fingers. Of this sort of punishment, however, I am, it seems, to have no more, as I am destined by the Congress to command in the South. In entering on this new and (as Lee says) most difficult theatre of the war, my first thoughts have been turned to the selections of an Engineer, an Adjutant-General and a Quarter-Master-General, Kosciusko, Hay and yourself, if I can prevail upon you all, are to fill these offices, and will fill them well. The *excellent qualities* of the Pole, which no one knows better than yourself, are now acknowledged at head-quarters, and may induce others to prevent his joining us. But his promise once given, we are sure of him."

The —— of Gates, for which the preceding extract had prepared us, was given and accepted, and though no time was lost by Kosciusko, his arrival was not early enough to enable him to give his assistance to his old friend and General. But to Greene (his successor) he rendered the most important services to the last moment of the war, and which were such as drew from that officer the most lively, ardent, repeated acknowledgments, which induced Congress, in October, 1783, to bestow upon him the

brevet of Brigadier General, and to pass a vote declaratory *of their high sense of his faithful and meritorious conduct.*

The war having ended, he now contemplated returning to Poland, and was determined in this measure by a letter from Prince Joseph Poniatowski, nephew of the king and generalissimo of the army. It was, however, ten years after this period (1783) before Kosciusko drew the sword on the frontiers of Cracovia.

3. *Conduct of Kosciusko in France.* When Bonaparte created the Duchy of Warsaw and bestowed it on the King of Saxony, great pains were taken to induce Kosciusko to lend himself to the frontier and support of that policy. Having withstood both the smiles and the frowns of the minister of police, a last attempt was made through the General's countrywoman and friend, the Princess Sassiche. The argument she used was founded on the condition of Poland, which, she said, no change could make worse, and that of the General which even a small change might make better. "But on this head I have a *carte blanche*, Princess," answered the General (taking her hand and leading her to her carriage), "it is the first time in my life I have wished to shorten your visit; but you shall not make me think less respectfully of you than I now do."

When these attempts had failed, a manifesto in the name of Kosciusko, dated at Warsaw and addressed to the Poles, was fabricated and published at Paris. When he complained of this abuse of his name, &c., the minister of Police advised him to go to Fontainbleau.

ANECDOTES OF DOCTOR FRANKLIN.*

Our revolutionary process, as is well known, commenced by petitions, memorials, remonstrances, &c., from the old Congress.

* TO ROBERT WALSH, ESQ.

MONTICELLO, December 4, 1818.

DEAR SIR,—Yours of November 8th has been some time received; but it is in my power to give little satisfaction as to its inquiries. Dr. Franklin had many political enemies, as every character must which, with decision enough to have

These were followed by a non-importation agreement, as a pacific instrument of coercion. While that was before us, and sundry exceptions, as of arms, ammunition, &c., were moved from different quarters of the house, I was sitting by Dr. Franklin and observed to him that I thought we should except books; that we ought not to exclude science, even coming from an enemy. He thought so too, and I proposed the exception, which was agreed to. Soon after it occurred that medicine should be

opinions, has energy and talent to give them effect on the feelings of the adversary opinion. These enmities were chiefly in Pennsylvania and Massachusetts: in the former they were merely of the proprietary party; in the latter they did not commence till the revolution, and then sprung chiefly from personal animosities, which spreading by little and little, became at length of some extent. Dr. Lee was his principal calumniator, a man of much malignity, who, besides enlisting his whole family in the same hostility, was enabled, as the agent of Massachusetts with the British government, to infuse it into that State with considerable effect. Mr. Izard, the Doctor's enemy also, but from a pecuniary transaction, never countenanced these charges against him. Mr. Jay, Silas Deane, Mr. Laurens, his colleagues also, ever maintained towards him unlimited confidence and respect. That he would have waived the formal recognition of our Independence I never heard on any authority worthy notice. As to the fisheries, England was urgent to retain them exclusively, France neutral; and I believe that had they been ultimately made a *sine quâ non*, our commissioners (Mr. Adams excepted) would have relinquished them rather than have broken off the treaty. To Mr. Adams' perseverance alone on that point I have always understood we were indebted for their reservation. As to the charge of subservience to France, besides the evidence of his friendly colleagues before named, two years of my own service with him at Paris, daily visits, and the most friendly and confidential conversations, convince me it had not a shadow of foundation. He possessed the confidence of that government in the highest degree, insomuch that it may truly be said that they were more under his influence than he under theirs. The fact is that his temper was so amiable and conciliatory, his conduct so rational, never urging impossibilities, or even things unreasonably inconvenient to them, in short so moderate and attentive to their difficulties as well as our own, that what his enemies called subserviency, I saw was only that reasonable disposition, which, sensible that advantages are not all to be on one side, yielding what is just and liberal, is the more certain of obtaining liberality and justice. Mutual confidence produces of course mutual influence, and this was all which subsisted between Dr. Franklin and the government of France.

I state a few anecdotes of Dr. Franklin, within my own knowledge, too much in detail for the scale of Delaplaine's work, but which may find *a cadre* in some of the more particular views you contemplate. My health is in a great measure restored, and our family joins with me in affectionate recollections and assurances of respect.

excepted, and I suggested that also to the Doctor. "As to that," said he, "I will tell you a story. When I was in London, in such a year, there was a weekly club of physicians, of which Sir John Pringle was President, and I was invited by my friend Dr. Fothergill to attend when convenient. Their rule was to propose a thesis one week and discuss it the next. I happened there when the question to be considered was whether physicians had, on the whole, done most good or harm? The young members, particularly, having discussed it very learnedly and eloquently till the subject was exhausted, one of them observed to Sir John Pringle, that although it was not usual for the President to take part in a debate, yet they were desirous to know his opinion on the question. He said they must first tell him whether, under the appellation of physicians, they meant to include *old women*, if they did he thought they had done more good than harm, otherwise more harm than good."

The confederation of the States, while on the carpet before the old Congress, was strenuously opposed by the smaller States, under apprehensions that they would be swallowed up by the larger ones. We were long engaged in the discussion; it produced great heats, much ill humor, and intemperate declarations from some members. Dr. Franklin at length brought the debate to a close with one of his little apologues. He observed that "at the time of the union of England and Scotland, the Duke of Argyle was most violently opposed to that measure, and among other things predicted that, as the whale had swallowed Jonas, so Scotland would be swallowed by England. However," said the Doctor, "when Lord Bute came into the government, he soon brought into its administration so many of his countrymen, that it was found in event that Jonas swallowed the whale." This little story produced a *general* laugh, and restored good humor, and the article of difficulty was passed.

When Dr. Franklin went to France, on his revolutionary mission, his eminence as a philosopher, his venerable appearance, and the cause on which he was sent, rendered him extremely popular. For all ranks and conditions of men there, entered warmly into the American interest. He was, therefore, feasted

and invited to all the court parties. At these he sometimes met the old Duchess of Bourbon, who, being a chess player of about his force, they very generally played together. Happening once to put her king into prize, the Doctor took it. "Ah," says she, "we do not take kings so." "We do in America," said the Doctor.

At one of these parties the emperor Joseph II. then at Paris, incog., under the title of Count Falkenstein, was overlooking the game in silence, while the company was engaged in animated conversations on the American question. "How happens it M. le Comte," said the Duchess, "that while we all feel so much interest in the cause of the Americans, you say nothing for them?" "I am a king by trade," said he.

When the Declaration of Independence was under the consideration of Congress, there were two or three unlucky expressions in it which gave offence to some members. The words "Scotch and other foreign auxiliaries" excited the ire of a gentleman or two of that country. Severe strictures on the conduct of the British king, in negotiating our repeated repeals of the law which permitted the importation of slaves, were disapproved by some Southern gentlemen, whose reflections were not yet matured to the full abhorrence of that traffic. Although the offensive expressions were immediately yielded, these gentlemen continued their depredations on other parts of the instrument. I was sitting by Dr. Franklin, who perceived that I was not insensible to these mutilations. "I have made it a rule," said he, "whenever in my power, to avoid becoming the draughtsman of papers to be reviewed by a public body. I took my lesson from an incident which I will relate to you. When I was a journeyman printer, one of my companions, an apprentice hatter, having served out his time, was about to open shop for himself. His first concern was to have a handsome sign-board, with a proper inscription. He composed it in these words, 'John Thompson, *Hatter*, *makes* and *sells hats* for ready money,' with a figure of a hat subjoined; but he thought he would submit it to his friends tor their amendments. The first he showed it to thought the word '*Hatter*' tautologous, because followed by the words

'makes hats,' which show he was a hatter. It was struck out. The next observed that the word '*makes*' might as well be omitted, because his customers would not care who made the hats. If good and to their mind, they would buy, by whomsoever made. He struck it out. A third said he thought the words '*for ready money*' were useless, as it was not the custom of the place to sell on credit. Every one who purchased expected to pay. They were parted with, and the inscription now stood, 'John Thompson sells hats.' '*Sells hats*' says his next friend! Why nobody will expect you to give them away, what then is the use of that word? It was stricken out, and '*hats*' followed it, the rather as there was one painted on the board. So the inscription was reduced ultimately to 'John Thompson' with the figure of a hat subjoined."

The Doctor told me at Paris the two following anecdotes of the Abbé Raynal. He had a party to dine with him one day at Passy, of whom one half were Americans, the other half French, and among the last was the Abbé. During the dinner he got on his favorite theory of the degeneracy of animals, and even of man, in America, and urged it with his usual eloquence. The Doctor at length noticing the accidental stature and position of his guests, at table, "Come," says he, "M. l'Abbé, let us try this question by the fact before us. We are here one half Americans, and one half French, and it happens that the Americans have placed themselves on one side of the table, and our French friends are on the other. Let both parties rise, and we will see on which side nature has degenerated." It happened that his American guests were Carmichael, Harmer, Humphreys, and others of the finest stature and form; while those of the other side were remarkably diminutive, and the Abbé himself particularly, was a mere shrimp. He parried the appeal, however, by a complimentary admission of exceptions, among which the Doctor himself was a conspicuous one.

The Doctor and Silas Deane were in conversation one day at Passy, on the numerous errors in the Abbé's "*Histoire des deux Indes*," when he happened to step in. After the usual salutations, Silas Deane said to him, "The Doctor and myself, Abbé,

were just speaking of the errors of fact into which you have been ed in your history." "Oh, no, Sir," said the Abbé, "that is impossible. I took the greatest care not to insert a single fact, for which I had not the most unquestionable authority." "Why," says Deane, "there is the story of Polly Baker, and the eloquent apology you have put into her mouth, when brought before a court of Massachusetts to suffer punishment under a law which you cite, for having had a bastard. I know there never was such a law in Massachusetts." "Be assured," said the Abbé, "you are mistaken, and that that is a true story. I do not immediately recollect indeed the particular information on which I quote it; but I am certain that I had for it unquestionable authority." Doctor Franklin, who had been for some time shaking with unrestrained laughter at the Abbé's confidence in his authority for that tale, said, "I will tell you, Abbé, the origin of that story. When I was a printer and editor of a newspaper, we were sometimes slack of news, and, to amuse our customers, I used to fill up our vacant columns with anecdotes and fables, and fancies of my own, and this of Polly Baker is a story of my making, on one of these occasions." The Abbé, without the least disconcert, exclaimed with a laugh, "Oh, very well, Doctor, I had rather relate your stories than other men's truths."

THE PROCEEDINGS

OF THE

GOVERNMENT OF THE UNITED STATES

IN MAINTAINING THE PUBLIC RIGHT TO THE BEACH OF THE MISSISSIPPI, ADJACENT TO NEW ORLEANS, AGAINST THE INTRUSION OF EDWARD LIVINGSTON.

PREPARED FOR THE USE OF COUNSEL,

BY THOMAS JEFFERSON.

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* The figures in this table refer to the pages of the original edition of Mr. Jefferson's pamphlet, which in this edition are marked with an asterisk, and placed in the margin.

PREFACE.

Edward Livingston, of the territory of Orleans, having taken possession of the beach of the river Missisipi adjacent to the city of New-Orleans, in defiance of the general right of the nation to the property and use of the beaches and beds of their rivers, it became my duty, as charged with the preservation of the public property, to remove the intrusion, and to maintain the citizens of the United States in their right to a common use of that beach. Instead of viewing this as a public act, and having recourse to those proceedings which are regularly provided for conflicting claims between the public and an individual, he chose to consider it as a private trespass committed on his freehold, by myself personally, and instituted against me, after my retirement from office, an action of trespass, in the circuit court of the United States for the district of Virginia.

Being requested by my Counsel to furnish them with a statement of the facts of the case, as well as of my own ideas of the questions of right, I proceeded to make such a statement, fully as to facts, but briefly and generally as to the questions of right. In the progress of the work, however, I found myself drawn insensibly into details, and finally concluded to meet the questions generally which the case would present, and to expose the weakness of the plaintiff's pretensions, in addition to the strength of the public right. These questions were of course to arise under the laws of the territory of Orleans, composed of the Roman, the French, and Spanish codes, and written in those languages. The books containing them are so rare in this country as scarcely to be found in the best-furnished libraries. Having more time than my Counsel, consistently with their duties to others, could bestow on researches so much out of the ordinary line, I thought myself bound to facilitate their labors, and furnish them with such materials as I could collect. I did it by full extracts from the several authorities, and in the languages in which they were originally written, that they might judge for themselves whether I misinterpreted them. These materials and topics, expressed in the technical style of the law, familiar to them, they were of course to use

or not to use, according to the dictates of their better judgment. If used, it would be with the benefit of being delivered in a form better suited to the public ear. I passed over the question of jurisdiction, because that was one of ordinary occurrence, and its limitations well ascertained. On this, in event, the case was dismissed; the court being of opinion they could not decide a question of title to lands not within their district. My wish had rather been for a full investigation of the merits at the bar, that the public might learn, in that way, that their servants had done nothing but what the laws had authorised and required them to do. Precluded now from this mode of justification, I adopt that of publishing what was meant originally for the private eye of counsel. The apology for its general complexion, more formal than popular, must be found as well in the character of the question, as in the views with which its discussion had been prepared. The necessity, indeed, of continuing the elaborate quotations, is strengthened in the case of ordinary readers, who are supposed to have still less opportunity of turning to the authorities from which these are taken.

The questions arising, being many and independent of each other, admitted not a methodical and luminous arrangement. Proceeding, therefore, in a course of narrative, I have met and discussed the points of law in the order in which events presented them; thus securing, as we go along, the ground we pass over, and leaving nothing adversary or doubtful behind. Hence the mixture of fact and law which will be observed through the whole.

Vouchers for the facts are regularly referred to. These are principally, 1. Affidavits taken and published on the part of the plaintiff, and of the city of New-Orleans, very deeply interested in this question. 2. Printed statements, by the counsel on each side, uncontradicted by the other, of facts under their joint observation and knowledge. 3. Records. 4. Notarial acts, and 5. Letters and reports of public functionaries filed in the office of the department of state.

Feb. 25, 1812.

PART II.

THE BATTURE AT NEW-ORLEANS.

Not long after the establishment of the city of New-Orleans, and while the religious society of Jesuits retained their standing in France, they obtained from Louis XIV. a grant of lands adjacent to the city, bearing date the 11th of April, 1726. The original of this grant having been destroyed in the fire which consumed a great part of the city in 1794, and no copy of it as yet produced, the extent and character of the grant is known from no authentic document. Its other limits are unimportant, but that next the river and above the city is understood to have been of 20 arpents, or acres, [of 180 French feet, or 64 yards of our measure each,] 'face au fleuve,' the ambiguity of which expression is preserved by translating it, 'fronting the river.' Whether this authorized them to go to the water line of the river, or only to the road and levee, is a question of some difficulty, and not of importance enough to arrest our present attention. To these they had added 12 arpents more by purchase from individuals. In 1763 the order of Jesuits was suppressed in France, and their property confiscated. The 32 arpents, before mentioned, were divided into 6 parcels, described each as 'faisant face au fleuve,' and the one next to the city of 7 arpents in breadth, and 50 in depth, was sold to Pradel; but how these 7 arpents, like Falstaff's men in buckram, became 12 in the sale of the widow Pradel to Renard, [Report 7.] 13 in Gravier's inventory, and nearly 17, as is said Derb. viii. ix. in the

Title of the Jesuits.

Fronting river.

Confiscation.

Gravier's title.

extent of his fauxbourg, the plaintiff is called on to show, and to deduce titles from the crown, regularly down to himself. In 1788, Gravier, in right of his wife the widow of Renard, laid off the whole extent of his front on the river, whatever it was, into 4 ranges of lots, and in '96 he added 3 ranges more, establishing them as a Fauxbourg, or Suburb to the city. That this could not be done without permission from the government may be true; and no formal and written permission has been produced. Whether such an one was given and lost in the fire, or was only verbal, is not known. *But that permission was given must be believed, 1. From Gravier's declaration to Charles Trudeau the surveyor, which must operate as an Estoppel [Report 45.] against all contrary pretensions in those claiming under him. 2. From Carondelet's order to Trudeau, first to deposit a copy of the plan in the public archives, and afterwards an order for a second one to be delivered to himself, which implied necessarily that he had consented to the establishment; but more especially when B. Gravier relying on this establishment as freeing him from the repairs of the bank, the Governor declared 'it was true and that Gravier was right.' 3. From the records of the Cabildo, or town council, with whom the Governor sat in person, showing that at their sessions on the 1st day of January annually, for regulating the police of the city, a Commissary of police for the new quarter was regularly appointed from the year 1796, till the United States took possession. The actual settlement of the ranges next the river, and the addition of the new ranges, now probably rendered that necessary. 4. From the conviction expressed by the Surveyor that, from his knowledge of the laws and customs of the Spanish colonies, no one would have dared to establish a city, bourg, village or fauxbourg without authorization, verbal at least, from the Governor. 5. From the act of the local legislature incorporating the city of New Orleans. [Thierry 32.] That no formal written act of authorization can be produced is not singular, as that is known to be the condition of a great proportion of their titles from the

Fauxbourg.

*6

government: and the extraordinary negligence in these titles was what rendered it necessary for Congress to establish, in the several territories of Orleans, Mississippi, Louisiana, Indiana and Michigan, boards of Commissioners, to ascertain and commit them to record. To this we may add that the principle which shall take from the inhabitants of the Suburb St. Mary the validity of their establishment, will annul a great portion of the land rights of those several territories. Finally, whatever act of the government may be considered as amounting to evidence of its ratification of the establishment of the fauxbourg, is retrospective, and will amount to an original authorization under the maxim, 'omnis ratihabitio retrotrahitur, et mandato æquiparatur.'

Gravier's sale.

Bertrand Gravier proceeded to sell the lots of his new Fauxbourg, and particularly he sold the whole range next the river. Such deeds for these lots as have been produced, describe them as 'haciendo frente al rio,' 'fronting the river.' And it is affirmed, [Examen 13. Poydras 7. and 18. Thierry 39.] that almost all, if not all the deeds, used the same expression. [See notarial copies of the deeds of B. Gravier to Nicholas Gravier, and of Nicholas Gravier to Escot, Girod, *Wiltz.] Bertrand Gravier himself, on all occasions, [Pieces Probantes 9. 21. 28. 30. Livingston 59. Monile's deposition, MS.] declared that he had sold his lots 'faisant face au fleuve,' and had passed to the purchasers his right to the *devanture*, meaning every thing in front of his lots. Whatever extent then towards the river, passed to the Jesuits by the term 'face au flueve,' or from the king to the purchasers of the Jesuit's property, under whom B. Gravier claimed, the same extent was, by the same expression, 'face au fleuve,' or 'frente al rio,' passed by Bertrand Gravier to the purchasers of the front lots. If the words 'face au fleuve,' gave him only to the road and levee, he by the same words gave them no farther; if to the water edge, then he sold to the water edge also, and having parted with all his right as riparian possessor, could transmit none to those claiming under him by subsequent title, *7

as the plaintiff does. In a note added to the end of the printed Report of this case, whether by the reporter or the plaintiff does not appear, it is said that this objection was answered by showing, *from the deeds*, that each lot had a clear front boundary, by referring to the '*plan which in no instance crossed the road.*' And that this brings it within the rule of law which says, 'in agris limitatis jus alluvionis locum non habere constat.' Dig. 41. 1. 16. This process of deduction, if not clear, is compendious at least, and better placed in a note, than in the text, where explanation would have been expected. Let us spread it open and examine it. What says the deed to Nicholas Gravier for 58 lots?

Yo Don Beltran Gravier vendo a Don Nicholas Gravier cinquenta y ocha terrenos situados en esta dicha ciudad, extramuros de la puerta de Chapitulas, à saver, *trece haciendo frente al rio*, Missisipi, y lindando por el lado de abaxo, que es de esta dicha ciudad, con terreno de Don R. Jons, y por el de arriba con otros de Don J. B. Sarpy, &c. Y los *quarenta y cinco terrenos restantes* completa a los cinquenta y ocho, que quedan indicados, comenzan sobre el limite de la primera calle, formande una linea directa à empezar por el terreno que se halla detras del de Don J. Poydras, todo conforme al plano que, delincado por Don C. L. Trudeau, hé entregado al com-

8* prador para su inteligencia* y resguardo: però con la condicion de que me reservo el derecho de tomar la tierra que necessitaré para mi fabrica de ladrillos,

I Don Beltran Gravier sell to Don Nicholas Gravier 58 lots situated in this said city without the gate of Chapitulas, to wit, 13 *fronting the river* Missisipi, and bordering on the lower side, which is that of this said city, with the lot of Don R. Jones, and on the upper side with others of Don J. B. Sarpy, &c. And *the* 45 *lots remaining*, the complement of the 58 before mentioned, commence above [or beyond] the limit of the first street, forming a right line, beginning at the lot which is behind that of Don J. Poydras, in conformity with the plan which having been delineated by Don C. L. Trudeau, I have delivered to the purchaser for his information and ascertainment: Nevertheless, with the condition that I reserve to myself the right to take the earth which I shall need for my manufacture of bricks on the beach or batture which is in

en la playa ó Battura que hay en la extension de los nominados trece terrenos que hacen frente al dicho rio.

the extension of the said 13 lots which front the river.

The first part of this description is of the 13 lots, to wit, that they front the river. The second part relates wholly to the remaining 45 lots, which begin beyond or above the first street in a straight line from the lot behind Poydras', and refers to the plan to show their position more particularly as back lots, behind the front range. It is to be noted that the public way in front of the fauxbourg is not a street: it is the same chemin royale, royal road, which has existed from early times, and has never been merged in the character of a street. Nothing can prove more clearly, that this reference to the plan was not to give a front line to the 13 lots, than that the same deed reserves the right of digging earth on the batture beyond that line. Now if nothing was meant to be conveyed *beyond* the front line marked in the plan, why reserve a right to dig earth on the batture, which is *beyond* that line? And that Nicholas Gravier, Escot, Girod and Wiltz did not consider this line as the limit of their rights, appears from their deeds conveying the *batture* expressly by that name, with the lots themselves. On the whole, we see here a curious specimen of tergiversation in reasoning. When urged that the grant to the Jesuits, and to Bertrand Gravier, though expressed to be 'face au fleuve,' must still have stopped at this line or edge of the royal road, it is answered that those terms convey to the water edge, and make it an 'ager arcifinius,' to which the right of alluvion appertains. But when Bertrand Gravier conveys to his purchasers 'face au flueve,' they turn about and say that the same identical words 'face au fleuve,' convey now only to this same line or edge of the royal road, which they overleaped before, and make the grounds conveyed an 'ager limitatus,' to which the right of alluvion does not appertain. It is perfectly equal which of the meanings is ascribed to these words. Only give them the same in both instances, and say which. If these words make the road your boundary,

you never had a right to the batture beyond it. If they extend to the river what was conveyed to *you*, they extend to the river also what was conveyed *from you*. Will it be pretended that, after establishing his town, Bertrand Gravier could then have sold the streets to others? and yet he might, a fortiori, having not included them in any deed. But does not common sense and common honesty *9 *proclaim that the establishment of his town, and sale of the lots, implied a relinquishment to the inhabitants of the communications of streets and shores adjacent, as a common, which are the necessary and constant appendages of every town? The express conveyance then of his riparian rights, and the implication as to them and the streets, are believed to be conclusive to show that the plaintiff having had no right, can have sustained no wrong.

Streets.

In 1797, Bertrand Gravier died intestate; and at this epoch we must introduce what constitutes the sole object of the existing contest. Opposite to the habitation or plantation of B. Gravier, now the Fauxbourg Ste. Marie, the beach of the river, called in that country Batture, of ordinary breadth within memory, has sensibly increased, by deposits of earth, during the annual floods of the river, [Derb. xix.] till in the year 1806, it was found to extend in breadth, at low tide, from 122 to 247 yards of our measure, from the water edge into the river: and from about 7 f. height, where it abuts against the bank, declining to the water edge. See Pelletier's plan annexed. Thiery xvii. While uncovered, which is from August to January inclusive, it has served as a Quai for lading and unlading goods, stowing away lumber and firewood, and has furnished all the earth for building the city, and raising its streets and courts, essential in that oozy soil. Derb. ii. While covered, which is during the other six months of the year, from February to July inclusive, [Liv. 58. Poydras 20. 21. 23.] it is the port for all the small craft of the river, and especially for the boats of the upper country, which, in the season of high water, can land or lie no where else in the neighborhood of the

Beach or Batture.

city. During this period, they anchor on its bottom, or moor to its bank. It is then, like every other beach, the bed of the river one half the year, and a Quai the other half, distinguished from those of tide waters, by being subject to an annual, instead of a semidiurnal ebb and flood. In this beach or shoal, with the bank to which it is adjacent, if Bertrand Gravier claimed any right, as riprarian proprietor of the habitation, he had certainly meant to convey that right to the purchasers of the front lots, by the term 'frente al rio,' 'fronting the river,' reserving expressly, as we have seen, from one purchaser of 58 lots, a right to take earth, from the beach, for his brickkilns. As he died without children, the inheritance belonged to John Gravier, and other brothers and sisters whom he had left in France, or their representatives, as co-heirs.

Purchase by Inventory.

By the civil law, if an heir accepts the inheritance, he is considered, not merely as the representative, but as continuing the person of the ancestor himself, is answerable for all his debts, and out of all his property, as well his own, as *what he had newly acquired by the inheritance. 10* Time, therefore, was allowed him to inform himself of the condition of the estate and debts, during which it was considered as an hæreditas jacens, vested in nobody. If he declined taking the inheritance simply as heir, he was allowed to take it as purchaser, or in their language, as heir with the benefit of inventory: whereupon an inventory and appraisement of it took place, and he had the preëmption at the appraised value. He was then liable to no more debts than the amount of the appraisement; and if there was a surplus of the appraised value over and above the debts it was his, if a single heir, or partitioned among the co-heirs, as parceners, if there were more than one. Brown. civ. law, I. 218. 302. Kaim's law tracts, 389. Gibbon's c. 44. 153. Bertrand Gravier is understood to have left France indebted and insolvent: and John Gravier, therefore, either knowing, or ignorant of the amount of the debts, chose on behalf, or perhaps in defraud, of the co-heirs, to decline the inheritance, and to take the estate as a purchaser by in-

ventory and appraisement. It was inventoried and appraised. In the inventory is placed a single article of lands, in these words, 'are placed in the inventory the lands of this habitation, whose extent cannot be calculated immediately, on account of his having sold many lots; but Mr. N. Gravier informs us that its bounds go to the forks of the bayou, according to the titles.' And in the appraisement also there is but this same single article of lands, thus described, 'about thirteen arpents of land, of which the habitation is estimated, including the garden, of which the most useful part is taken off in front, the residue consisting of the lowest part, [to wit, that descending back to the bayou,] the side being sold to Navarro, one Percy, and the negro Zambo, a portion of which, &c. estimated at 190 D. the front acre, with all the depth, which makes 2470 D.' Then follows the adjudication, which adjudges to John Gravier 'the effects, real estate, moveables and slaves *which have been inventoried* as belonging to the estate of his deceased brother Bertrand Gravier, &c. Report 9. 10. We see, then, that no lands were inventoried but the thirteen arpents in front, composing the inhabitation. And it is impossible that that term should be meant to include the beach of the river, cut off from it by the intervention of the whole Fauxbourg of seven ranges of squares; or that they should not have used a more obvious expression, if the idea of the beach had been in their minds. Nobody could consider these two parcels, distant and disjointed as they were, as being one parcel only, one habitation. No man having two farms, or two tracts of land, separated by the lands of others, would expect that by devising or conveying one, the
11* other would *pass also. In fact, at that time, neither John Gravier nor any one else, considered the beach as any part of Bertrand Gravier's estate: and in the appraisement, they estimate the front arpents, (that is, fronting on the fauxbourg,) with all their depth to the bayou, at 190 dollars, the front arpent; contemplating clearly only what was between the fauxbourg and bayou. Accordingly Fernandez, acting for the Depositor General, the legal officer in those cases, swears that

he took charge and possession of all the estate according to the inventory which had been made from the 28th of June to the 4th of July, 1797; that, in that inventory, the batture never was mentioned, or heard of, as property of Gravier, nor in charge of the Depositor, and that, on delivering the estate to John Gravier, the batture never was spoken of. It is equally certain that had there been an idea that they were smuggling the batture away, through these proceedings, the citizens of New-Orleans would not have been so silent, nor the Governor, the Cabildo and other Spanish authorities so passive, when so active on all former occasions respecting the batture: and that had the batture been under the view of the appraisers, instead of estimating it at 2470 dollars, conjointly with other thirteen arpents, a very different sum must have been named. The batture alone is now estimated at half a million of dollars. But the truth is, that neither John Gravier, nor any one else, at that day, considered it but as public property. And for six years ensuing, he never manifested one symptom of ownership; until Mr. Livingston's arrival there from New-York, with the wharves and slips of that place fresh in his recollection. The flesh-pots of Egypt could not suddenly be forgotten, even in this new land of Canaan. Then John Gravier received his inspiration that the beach was his; and is tempted, by one kind of bargain after another, to try his fortune with it. It was only to lend his name, and receive a round sum if anything could be made of it. To get over the palpable omission of it in the inventory and appraisement, they find a man whose recollection is exactly à propos; a Henry Parisien, a comedian by profession, and a joiner by trade. He had been one of the appraisers, 10 years before, and recollected, and so swore that he had '*walked on the batture*, before the closing of the appraisement to ascertain its extent, and be the better able to judge of its value, and that it was through forgetfulness that *it had not been taken into the estimate.*' Piecès Prob. 33. It happens that nature bears witness against him. From the 20th of June to the 4th of July is within the period of high

Livingston's arrival.

Parisien.

waters; and it is proved that, at the very time of the appraisement, the river was still overflowing, and the batture covered
*12 with water: *the journals of the sawmills further attest that they did not cease to work till the 25th of August of that year; and when the waters of the river are sufficiently low to stop the mills, all the battures are still covered with water. P. Pr. 34. However even this Henry Parisien swears, '*that the batture was not in the estimate*, and that it was through forgetfulness that it was not.' Examin 19. Rep. 21. Pi. Prob. 33. No matter through what cause, it is enough that it was *not in the inventory or estimate*, and of course not sold to J. Gravier. This corroborates the testimony of the Depositor, that he neither had it in his charge, nor included it in the estate sold and delivered. J. Gravier must therefore, as to this part of his brother's estate, if his it were, recommence his work, by having a new inventory, appraisement and adjudication. But to repel the present proceeding, it suffices that having made his election to take, not as heir, but purchaser, this beach is not yet his; it is still an hæreditas jacens, and before he can convey it to Mr. Livingston, he must get it by a new process, and make a third bargain.

We will proceed further to trace the history of this acquisition of the batture, by the plaintiff, who writes a letter of lamentations to some member of the government, on the 27th of June, 1809. That 'Congress will probably adjourn without coming to any decision on the subject of my removal by the late president of the United States from my estate at New-Orleans.' A most ungrateful complaint; for had he not been removed, he must, at the time of writing this letter, have been, as his estate was, some 10 or 12 feet under water; the river being then at its greatest height. And when was this notable discovery made, that the beach of the river was the separate and exclusive property of J. Gravier, clear of all public right to its use? Let us hear the Governor, in answer to this question. In a letter to the Secretary of State of October 13, 1807, he says, 'early after the arrival of Mr. Livingston in this territory, he became concerned

in the purchase of a parcel of ground fronting the fauxbourg of this city, commonly called the batture, a property which had been occupied as a common by the city for many years previous, and the title to which, in the opinion of the inhabitants was unquestionable.' The day* of the arrival of Mr. Livingston in New-Orleans I do not know; but I recollect he was one of the earliest emigrants to that country, which was ceded to the United States on the 30th of October, 1803. We are told, [Rep. 11. Thierry 5.] it was proved by some oral testimony that J. Gravier *began* an inclosure of 500 feet square in that year, and completed it in the next. The day *of begin- 13*
ning is not stated; but we may safely presume it was not while the French Governor thought the country belonged to his master, and most probably not till after 'the early arrival of Mr. Livingston.' This enclosure was demolished by an order of the Cabildo of Feb. 22, 1804.† The next step was to make an ostensible deed, to an ostensible purchaser,‡ a Peter de la Bigarre, a brother emigrant of Mr. Living- Bigarre.
ston's from New York, some old acquaintance. This was dated March 27, 1804, is expressed to be in consideration of 10,000 dollars, and conveys two undivided thirds of all that part or parcel of land, situate on the bank [sur la rive] of the river Missisipi, between the public road and the current of the said river, &c. with a warranty. I call the purchases ostensible, because notwithstanding his pretended purchase, J. Gravier, on the 20th of October, 1805, [Rep. 1.] commenced a suit against the city, as proprietor of the whole, and the court adjudged him proprietor of the whole; and because the same J. Gravier, [Poydr. 3.] by a deed to the same P. de la Bigarre, in which no mention was made of the former, or reference to it, conveys to him on the 14th Dec. 1806, the batture Ste. Marie, along the whole limits of this land, between the road and river, on condition that he shall pay all expenses of the suit depending, with 50,000 dollars in addition; that the property shall remain unsold

* He says, February, 1804. See address.
† Thierry. ‡ Notar. copy, Gravier to Bigarre,

and hypothecated for the purchase money till paid, and that if the law-suit fails, the sale is void, and Bigarre to pretend to no damages for non-execution. It is observable here that neither buyer or seller risked anything. It was a mere speculation on the chance of a law-suit, in which they were to divide the spoils if successful, and to lose nothing if they failed.* It was by our law a criminal purchase of a pretense title, 32. H. 8. 9. and equally criminal by the law of that territory, where I presume the provision of the Roman law is in force, 'qui improbè coeunt in alienam litem, ut quidquid ex condemnatione in rem ipsius redactum fuerit, inter eos communicaretur, lege Juliâ, de vi privatâ, tenentur.' Dig. 47. 8. 6. 4 Blackst. 135. 'Whosoever shall take part in the suit of another, so that whatever shall be recovered by the judgment is to be divided between them, shall be subject to the Julian law, de vi privata.' By which law, ib. tit. 7. § 1. they were to lose one third of their goods, and be rendered infamous. The deed was not only criminal on its face, but was void by an express law of the territory, [a law of Governor Unzaga. Poydras 6. Rep. 25.] and so pro-

*14 nounced to be on the floor of Congress *by their representative, because not executed before either witnesses or notaries. It was kept secret from its date, till the day before judgment was pronounced, when the parties becoming apprised of the decision which was to be given, (for this was known at least on the 20th of May,) [Governor Claiborne's letter May 20, '07,] produced it, for the first time, to the Notary to be recorded. And the day after its publication, the court, by the opinion of two members against one, [Examen 3.] adjudged the property wholly to the very man, who, if he had ever had any right, had conveyed away two thirds of it, before he brought his action, and the whole while it was pending. The alarm which this adjudication produced was immediate and great. The fact was notorious that, from the earliest to the latest ex-

Decision of Court.

Alarm occasioned.

* Lafon, in his map of New Orleans, says expressly that the Missisipi, at the city, is uniformly of the breadth of 300 toises only.—*MS Note.*

tension of the beach, the public had had a free use of it, as their Quai in low water, and in high water their port; and never before had their right been doubted by themselves, or questioned by their riparian possessors. If any fact was ever proved by human testimony, this is. Turn to the Pieces Probantes, and out of 29 affidavits of the oldest and most respectable persons in the territory, men who had, most of them, borne offices under their former government, 21 of them uniformly declare that the public had ever been considered as having a right to the beach, as their port and Quai, that, as such, the Governors and Cabildo had the constant care and control of it, had demolished buildings and enclosures erected on it, had, by public Ban, prohibited all erections or obstructions to its use, had themselves erected a rampart, to inclose within it a chamber accessible for earth at high water for rebuilding the city after the fire, and exercised uninterruptedly every other act of authority derived from the public rights; and 11 of them prove, as far as a negative can be proved, that the Graviers, till the change of government, and new views by Edward Livingston, had never pretended to more than the right of Common in it, and never had questioned that of the public, or the authority of the Governor and Cabildo over it. While they held the adjacent plantation indeed, they maintained the road and bank, as all rural proprietors are obliged by* law to do: for here it is proper to observe, that pursuing the spirit of the Roman law, which prescribed that every one should maintain the public road along his own dwelling, 'construat vias publicas unusquisque secundum propriam domum.' Dig 43. 10. 3. The lands in Louisiana were granted generally on a condition, (called in those days **servitude*,) of furnishing ground for a public road, and of opening and maintaining that road. From which condition, however, they were released as to any portion of the ground which should afterwards become a town; the expense of roads or streets of that portion devolving then on the town itself. Accordingly

Servitude of road.

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* Rep. 19.

B. Gravier, after establishing the front of his plantation into a suburb, and thus cutting off the residue from the road and river, being* called on to repair the road by an order from Governor Carondelet, who seems at the moment not to have adverted to the change, Bertrand Gravier answered, that having sold the lots *faisant face au fleuve*, fronting the river, he had abandoned the batture to the town, and that the road and levee could not be at his expense, the Governor correcting himself at once, says, 'Gravier is right, all this is true,' and immediately, and ever after had the repairs made by the public. And the Graviers from that time stood discharged from these burthens on the same principle which had freed the original owners of the site of the city from maintaining the banks of the city. This is declared by an host of witnesses in the Pieces Probantes, and probably could have been declared by every ancient inhabitant of the place. We are told indeed by Laroche and Segur, in their affidavit, [Livingston 66.] of Carondelet, and some other Governor asking leave of Gravier in 1795 and 1798, to deposit masts on the beach. If this be true, which Mr. Thierry, [p. 42.] who knew the witnesses, treats as ridiculous and absurd, it shows that they were forgetful, or inconsistent, or over complaisant; but not that Gravier required, or expected to be asked; and much less could it divest a public right, acknowledged from the earliest times, and essential to the commerce and existence of the city. An accurate discrimination indeed between the measure of right in the riparian proprietor while he held the adjacent farm, in the individuals of the nation as usufructuaries, and in the sovereign as their representative and trustee, as respectively apportioned to them by the law, seems not to have been attended to either by the citizens at large, or the adjacent proprietors. The riparian possessor appears to have been sensible he had some rights, without distinctly understanding what they were: but, whatever they were, he knew he had parted with them by the deeds establishing his fauxbourg. The citizens, in the daily habit of using without

* Monile's affidavit, MS.

control the port and Quai, imagined themselves exclusive proprietors of its soil, and came forward in that capacity, claiming, sometimes under some vague title which they did not define, and sometimes under the abandonment of right by Bertrand Gravier; *the Sovereign, formerly their kings, but *16
now the United States the legal holder of the public rights in the beds, beaches and banks of all navigable waters, seems not to have been thought of at all in the contest. The United States were no party to the suit; U. States no party.
nor could they be, having made themselves *amenable* to no tribunal. Their property can never be questioned in any court, but in special cases in which, by some particular law, they delegate a special power, as to the boards of Commissioners, and in some small fiscal cases. But a general jurisdiction over the national demenses, being more than half the territory of the United States, has never been by them, and never ought to be, subjected to any tribunal. Not adverting to this circumstance, however, the consternation in New-Orleans, on this decision, was like that of Boston, on the occlusion of their port by the Boston port bill. If we have not forgotten that feeling, we may judge what the citizens of New-Orleans felt on this decree of the court.

The governor instantly writes, [letter of May 20, '07.] 'I understand that this morning an important cause has been determined, in which Edward Livingston was the *real* plaintiff, and the city defendant, as to the right of property to some lands in front of the fauxbourg, made by the river, and over which the city has heretofore exercised a right of ownership. My impression is that the United States are the legal claimants to it.' On the 21st of August, 1807, Mr. Derbigny's opinion was published, [Thierry 5.] and first brought into view the right of the United States, and that the sentence of the court must of course, as to them, be a mere nullity, 'res inter alios acta, quæque aliis non potest præjudicium facere.' A thing passing between others, and which to no others can do prejudice. Codex. 7. 60. And coming, with respect to the United States, under the provisions of the same code.

Tit. 56. 'Si neque mandasti fratri tuo defensionem rei tuæ, neque quod gestum est ratum habuisti, præscriptio rei judicatæ tibi non oberit: et ideò non prohiberis causam tuam agere, sine præjudicio rerum judicatarum.'

'If you have not committed to your brother the defence of your right, nor sanctioned what has been done, the plea *rei judicatæ* shall not bar you: and therefore you shall not be precluded from conducting your own cause, without exception from a former decision.'

Certainly the city council did not appear, or pretend to appear, under authorization from the government of the United States, nor as the advocates of their rights. They were called there as defendants of their own claim. The court did not undertake to decide on the right of the United States, which
*17 was *neither before them, nor within their competence; and the injunction they issued could only be addressed to the parties between whom they had adjudged, and not to suspend the rights of others whom they had never heard, much less of the United States, who could not be heard before them. See 2 Dallas 408. 3 Dallas 412. 414. 415.

Presuming, however, that the coast was now clear, and the question finally settled, the ostensible actors withdrew, and their principal comes forward, is put into possession by the Sheriff, and begins his works. The Governor, in his letter of Sept. 3, 1807, says, 'a few days since, [Aug. 24.] Mr. Livingston employed a number of negroes to commence digging a canal which he projected to take in a part of the land called the batture. But the citizens assembled in considerable force and drove them off. On the day following he went in person, but was again opposed by the citizens. The minds of the people were much agitated. The opposition is so general that I must resort to measures the most conciliatory, as the only means of avoiding still greater tumult, and *perhaps much bloodshed.* I have not issued a proclamation because it might make an impression in the United States that the people are disposed for insurrection, which is not true. My opinion is that the title is in the United States. If the batture be re-

Livingston's Intrusion.

claimed, it is feared the current of the Missisipi will in some measure change its course, which will not only prove injurious to the navigation, but may occasion degradation in the levees of the city, or those in its vicinity.' To abridge our narration by giving the substance of the communications. The people assembled the next day about the same hour, and for several days successively, by beat of drum. [Livingston's letter of Sept. 15. '07.] On Monday the 31st of August, Mr. Livingston recommenced his work, after having given notice that he should do so. He began about 10 o'clock, A. M. and about 4 or 5 o'clock in the afternoon the people assembled again and drove off his labourers. On the 14th of September he again attempted to work, getting two constables to attend his labourers. The people drove them off, and the constables having noted on a list some of those present, they seized them, took the list and tore it to pieces. [Sheriff's letter.] On the next day he writes to the Governor that he shall set his labourers to work again that day at 12 o'clock, and 'he shall not be surprised to see the people change the insolence of riot into the crime of murder.' At noon he accordingly placed 10 or 12 white labourers there. In the afternoon the people re-assembled to the number of several hundreds. The governor repaired there and spoke to them. He was heard with respectful attention:* and one of them, speaking for the whole, expressed the serious uneasiness which the decision of the court had excited, the long and undisturbed possession of the batture by the city, as well under the French as the Spanish government, and the great injury which would result to the inhabitants if the land should be built upon and improved. And another declaring that they wished the decision of Congress, and in the mean time, no work to be done on the batture, there was a general exclamation from the crowd, 'that is the general wish,' followed by a request that they might nominate an agent to bear to the President of the United States, a statement of their grievances, and that the Governor would recommend the agent to the government. He said he would do

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Appeal to government of the United States.

so, and they nominated Col. Macarty, by general and repeated acclamations. They then withdrew in peace to their respective homes, and on the 16th the Governor expresses the hope that this unpleasant affair is at an end, that everything is then quiet, and the public mind much composed: that some of his hot-headed countrymen censured the mild course which was pursued, and would have been better pleased if the *military* had been called upon to disperse the assemblage. But I feel, says he, that the policy adopted was wise and humane, and that a contrary conduct would have increased the discontents, and *occasioned the effusion of much innocent blood.* The Louisianians, he adds, are an amiable, virtuous people, but sensibly feel any wrongs which may be offered them. Mr. Livingston is alike feared and hated by most of the ancient inhabitants. They dread his talents as a lawyer, and hate his views of speculation, which in the case of the batture was esteemed very generally by the Louisianians no less iniquitous, than ruinous to the welfare of the city.' The governor says in another letter of October 5, to the Secretary of state, that in a progress he made a few days afterwards through several parishes of the territory, he perceived but one sentiment with respect to the decision of the court. The long and uninterrupted use of the batture by the city, the sanction given by the Spanish authorities to the public claim, and the heavy public expenditures in maintaining the levee which fronts it, seem to have given rise to a very general opinion that the court has been in error in deciding the batture to be private property. On the 13th of November he again writes, 'I should be wanting in duty did I not earnestly recommend the subject of the batture to the attention of the government. There is no doubt but the agents of Spain considered it as a public property, and did appropriate the same to the use of the city, as a common. I should presume that, under the treaty, the United States may justly claim the bat-
*19 ture, and if any *means can be devised to arrest the judgment of the territorial court, or to carry this case before another tribunal, the earlier they are resorted to, the bet-

ter; for Mr. Edward Livingston is now in possession of the property, and *making improvements thereon.*' And the next day, Nov. 14, a grand jury of the most respectable characters of the place gave in a presentment to the court in which they say, 'We present as a subject of the most serious complaint the present operations on the batture by Edward Livingston and others connected with him: that this is from 4 to 6 months of every year a part of the bed of the river, and an important part of the port of New-Orleans: that these operations of Edward Livingston are calculated to obstruct the free navigation of the river, to change the course of its waters, to deprive our western brethren, whose only market for the produce of their extensive territory, is to be found in this city, of the deposit which has hitherto remained free to them, and not only of incalculable importance, but of absolute necessity. Whether it be private or public property, is immaterial, so long as the laws do not permit such use of it as to injure and obstruct the navigation: and we present it as our opinion that all such measures should be taken as are consistent with law to arrest these operations which are injurious for the present, and, in changing the course of the river, are hazardous in the extreme.' We find Mr. Livingston then, instead of awaiting the decision of Congress, the only constitutional tribunal, resuming his works boldly, and the people, whom he represented as like 'to change the insolence of riot into the crime of murder,' appealing peaceably, by presentment, to the laws of their territory until the National government should decide. In the latter end of the same year, [Surveyor's Rep. to Mayor, Dec. 28, '08.] he opens a canal from the bank directly through the beach into the river *276 feet long, 64 feet wide, and 4 feet 2 inches deep at low water, and with the earth excavated he forms a bank or quai, on each side, 19 feet 6 inches wide, from 4 to 6 feet high above the level of the batture, and faced with palissades. Within one year after this, what had been anticipated by the Governor, the grand jury and others, had already

Liv ngston's works.

* These are French measures: add a fifteenth to make them ours.

manifested itself. In Dec. of the ensuing year, 1808, [See Surveyor's rep. Dec. 28, '08.] a bar had already formed across the mouth of the canal, which was dry at low water, the course of the waters had been changed during the intervening flood, and the places where dry ground first showed itself, on the decrease of the river, were such as had, the year before, been nav-
*20 igable at low water. [Mayor's *answer to Governor, Nov. 18, '08.] The port in front of the town had been impaired by a new batture begun to be formed opposite the Custom house, which could not fail to increase by the change of the current. The beach or batture of St. Mary had, in that single tide extended from 75 to 80 feet further into the river, and risen from 2 to 5 feet 10 inches generally, and more in places, as a saw scaffold which, at the preceding low tide, was 7 feet high, was now buried to its top; and Tanesse, the Surveyor, [See his affidavit, MS.] in his affidavit says he does not doubt that these works have produced the last year's augmentation of the batture, at the expense of the bed of the river, have occasioned the carrying away a great part of the platin or batture of the lower suburbs, and breaking the levee of M. Blanque next below, and that the main port of the city being a cove, immediately below Livingston's works, would, if they were continued, be filled up in time; and it is the opinion of Piedesclaux also, [See his 3d affidavit, MS.] that they would produce changes in the banks of the river, on both sides, prejudicial to the city, and riparian proprietors, by directing the efforts of the river against parts not heretofore exposed to it. And Mr. Poydras tells us, [p. 20 of one of his speeches,] that when the river is at its height, the boats which drift down it can only land in the eddies below the points, as they would be dashed to pieces in attempting to land in the strong current. That, at the town, they cannot land for want of room, there being always there two or three tier of vessels in close contact; nor at the lower suburbs of Marigny, which being at the lower part of the cove, are too much exposed both to winds and current. Indeed no evidence is necessary to prove that in a river

of only 1200 yards wide, having an annual tide of 12 to 14 feet rise, which brings the water generally to within 8 or 10 inches, and sometimes 2 or 3 inches, of the top of the levee, insomuch that it splashes over with the wind, [See Peltier's, and Tanesse's affidavits, MS. and also the maps,] were the channel narrowed 250 yards, as Mr. Livingston intends, that is to say, a fourth or fifth of its whole breadth, the waters must rise higher in nearly the same proportion, that is to say, 3· feet at least, and would sweep away the whole levee, the city it now protects, and inundate all the lower country.

Thus urged by the continued calls of the Governor, who declared he could not be responsible for the peace or preservation of the place, by the tumult and confusion in which the city was held by the bold aggressions of the intruders on the public rights, by the daily progress of works which were to interrupt the commerce of the whole western country, threatened to sweep away a *great city and its inhabitants, and lay the adjacent country under water, I listened to the calls of duty, imperious calls, which had I shrunk from, I should have been justly responsible for the calamities which would have followed. On the 28th of October, '07, the Attorney General had given his opinion, and on the 27th of November, I asked the attendance of the heads of the departments, to whom the papers received had been previously communicated for their consideration. We had the benefit of the presence of the Attorney General, and of the lights which it was his office to throw on the subject. We took of the whole case such views as the state of our information at that time presented. I shall now develope them in all the fulness of the facts then known, and of those which have since corroborated them. 21*

Cabinet deliberation.

The first question occurring was, what system of law was to be applied to them? On this there could be but one opinion. The laws which had governed Louisiana from its first colonization, that is to say, the laws of France with some local modifications, were still in force when this question

What law?

was generated by the sale of the Jesuits' property to B. Gravier and others. France had indeed, about the end of the preceding year 1762, by a secret convention, ceded Louisiana to Spain, to be delivered whenever Spain should be in readiness to receive it. But this was not announced to the inhabitants till the 21st of April, 1764, nor did Spain receive possession till the 17th of August, 1769. [9 Raynal, 222. 235.] In the mean time the French government and laws continued, the Jesuits' property was sold, and purchased under the faith of the existing laws; and according to these laws must the rights acquired by the purchaser, or left in the crown, be decided. Indeed in no case are the laws of a nation changed, of natural right, by their passage from one to another denomination. The soil, the inhabitants, their property, and the laws by which they are protected go together. Their laws are subject to be changed only in the case, and extent which their new legislature shall will. The changes introduced by Spain, after 1769, were chiefly in the organization of their government, and but little in the principles of their jurisprudence.

Proclamation of O'Reilly.

The instrument which some have understood as suppressing the French and introducing the Spanish code, is the proclamation of O'Reilly of November 25, 1769, two months after the actual delivery of the colony. [See appendix to documents communicated to Congress by the President, with his message of October 17, 1803.] The transfer of the country, however, had been announced to the people five years before. Now surely, during these five years the *French laws must have continued entire, and of course after them, so far as not altered. And that this proclamation made specific only, and not general alterations, a brief examination of its tenor will evince. It begins by charging the late council with a participation in the insurrection which had taken place, and by declaring it indispensable to abolish that, and to establish the *form* of politic government and administration of justice prescribed by the wise laws of Spain. But a *form* of government may surely be changed, and the mass of the laws remain the

French code.

*22

same, as took place in our revolution. He proceeds then to establish that *form of government*, *dependence* and *subordination*, which should accord with the good of the service, and happiness of the colony. For this purpose he substitutes a Cabildo, in place of the ancient council, and instead of former analogous officers, he says there shall be Alferes, Alcades, Alguazils, Depositors, Regidors, a Scrivener, Procurator, Mayordomo, &c.; adopting thus the Spanish instead of the French organization of officers, for the administration of the laws. He changes the manner of proceedings in judicial trials, and of pronouncing judgments, according to a digest made by Unestia and Rey, by his order, *until* a general knowledge of the Spanish language and more extensive information on the statutes themselves might be acquired; prescribes rules for instituting actions by parties, of different denominations, the names and substance of the pleadings, rules for appearances, answers, replications, rejoinders, depositions, witnesses, exceptions, trials, judgments, appeals, executions, testaments, probates, advancements, and distributions: not changing the great outlines of the law, or the *ratio decidendi* generally; but merely the organization of officers, and forms of their proceeding. He states also the criminal law, what it is in sundry cases of irreligion, treason, murder, theft, rape, adultery, and trespass, proclaiming mostly what was already law; lastly, he establishes the fees of officers, and with that closes the proclamation, without a word said about abolishing the French, and substituting the Spanish code of laws generally. As far then as this instrument makes any special changes, its authority is acknowledged. But the very act of making special changes is a manifestation that a general one was not then intended. He did not mean by this instrument to change 'all and some.' One may indeed conjecture, from loose expressions in the instruments, that a more extensive change was in contemplation for some future time, when the inhabitants, as it says, should have acquired a general knowledge of the Spanish language. But *until* then expressly, and in the interim, the innovations it specifies are the only ones introduced. The great system of law which

*regulates property, which prescribes the rights of persons and things, and sanctions to every one the enjoyment of those
*23 rights, is left untouched, in full force and authority. If such a radical change were really meditated, it was never carried into execution; nor seems at any after time to have occupied seriously the attention of government. In the following year 1770, O'Reilly issued an additional ordinance respecting grants of lands; and Carondelet, in 1795, (26 years after the possession of the colony, and a year only before its transfer to us,) passed an ordinance of police, concerning bridges, roads, levees, slaves, coasters, travellers, arms, estrays, fishing and hunting; and these three acts seem to constitute the whole of the changes made in the established system of laws during the Spanish occupation of the country. Probably the Spanish authorities found, in the progress of their administration, that the difference between the French and Spanish codes, taken both from the same Roman original, would not justify disturbing the public mind, by a formal suppression of the one, and substitution of the other. Probably the officers themselves, not adepts in either, and partly French, and partly Spanish individuals, confounded them in practice as they found convenient; and hence the ill-defined ideas of what their laws were. But certainly when we appeal, as in the present case, to exact right, the French code is the only one sanctioned by regular authority; and the special changes before mentioned, of organization and police, having no relation to the beds and increments of rivers, that code is to give us the law of the present case. That code, like all those of middle and southern Europe, was originally feudal, [Encyclop. Method. Jurisprudence. Coutume. 400.] with some variations in the different provinces, formerly independent, of which the kingdom of France had been made up. But as circumstances changed, and civilization and commerce advanced, abundance of new cases and questions arose, for which the simple and unwritten laws of feudalism had made no provision. At the same time, they had at hand the legal system of a nation highly civilized, a system carried to a degree of conformity with natural

Roman.

reason attained by no other. The study of this system too was become the favorite of the age, and, offering ready and reasonable solutions of all the new cases presenting themselves, was recurred to by a common consent and practice; not indeed as laws, formally established by the legislator of the country, but as a RATIO SCRIPTA, the dictate, in all cases, of that sound reason which should constitute the law of every country.† Over both of these systems, however, the occasional* edicts of 24* the monarch are paramount, and amend and control their provisions whenever he deems amendment necessary; on the general principle that 'leges posteriores priores abrogant.‡ Subsequent laws abrogate those which were prior. This composition of the French code is affirmed by all their authorities. One only of them shall be particularly cited, to wit, Ferriere Dict. de droit. Ordonnance.

† The following instances will give some idea of the steps by which the Roman gained on the Feudal laws. A law of Burgundy provided that 'Si quis post hoc barbarus vel testari voluerit, vel donare, aut Romanam consuetudinem, aut barbaricam, esse servandam, sciat.' 'If any barbarian subject hereafter shall desire to dispose by legacy or donation, let him know that either the Roman or barbarian law is to be observed.' And one of Lotharius II. of Germany, going still further, gives to every one an election of the system under which he chose to live. 'Volumus ut cunctus populus Romanus interrogatur quali lege vult vivere: ut tali lege, quali professi sunt vivere vivant: illisque denuntiatur, ut hoc unusquisque, tam judices, quam duces, vel reliquus populus sciat, quod si offensionem contra eandem legem fecerint, eidem legi, quâ profitentur vivere, subjaceant.' 'We will that all the Roman people shall be asked by what law they wish to live: that they may live under such law as they profess to live by: and that it be published, that every one, judges, as well as generals, or the rest of the people, may know that if they commit offence against the said law, they shall be subject to the same law by which they profess to live.' Encyc. Method. Jurisprudence, Coutume. 399. Presenting the uncommon spectacle of a jurisdiction attached to persons, instead of places. Thus favored, the Roman became an acknowledged supplement to the feudal or customary law: but still, not under any act of the legislature, but as 'raison écrite,' written reason: and the cases to which it is applicable, becoming much the most numerous, it constitutes in fact the mass of their law.

‡ Since this publication, Gen. Armstrong, our late Minister at Paris, has sent me a printed copy of Crozat's Charter in French, which he says he obtained directly, and in person from the depôt of laws in Paris, but which he had no means of comparing with the original. This printed copy, with Gen. Armstrong's letter, I have deposited in the office of the Secretary of State at Washington. *MS. Note.*

'Les Ordonnances sont les vraies lois du royaume. Elles font la partie la plus générale et la plus certaine de notre droit Français, attendu qu'elles sont soutenues de l'autorité aussi bien que de la raison ; au lieu que les loix Romaines ne subsistent que par leur équité, elles n'ont par elles-mêmes aucune autorité, qu'autant qu'elles sont considérées comme une raison écrite, du moins en pays coutumier ; et à l'égard du pays de droit écrit, les loix Romaines n'y ont force de loi, que parceque nos rois ont bien voulu y consentir.

The Ordinances are the true laws of the kingdom. They constitute the most general and certain part of our French law, inasmuch as they are supported by authority as well as reason ; whereas the Roman laws stand on their equity alone, having of themselves no authority, but as they are considered as *written reason*, at least in the provinces of Customary law. And as to those of written law, the Roman laws are in force only because our kings have thought proper to consent to it.

This system of law was transferred to Louisiana, as is evinced by the †charter of Louis XIV. to Crozat, bearing date
*25 the *14th of Sept. 1712. The VIIth article of that is in these words. 'Our edicts, ordinances and customs, and the usages of the Mayorality and Shreevalty of Paris, shall be observed for laws and customs in the said country of Louisiana.' The customary law of Paris seems to have been selected, because considered as the best digest, and that to which it was proposed to reduce the customary law of all the provinces. Enc. Meth. Jurispr. Coutume. 405. This is the first charter we know of which established the boundaries and laws of Louisiana. It

† The only copy of this Charter I have ever met with is in Joutel's Journal of La Salle's last voyage. An application was made by the government of the United States, through their minister at Paris, to the government of France, for permission to have the original of this charter sought for in their Archives, and an authentic copy obtained. The application was unsuccessful. We must resort, therefore, to this publication, made in 1714, two years after the date of the patent, under the rule of law which requires only the best evidence the nature of the case will admit. For although we may not appeal to books of history for documents of a nature merely private, yet we may for those of a public character, e. g. treaties, &c., and especially when those documents are not under our control, as when they are in foreign countries, or even in our own country, when they are not patent in their nature, nor demandable of common right.

says nothing of the Roman law; but that, having become incorporated, by usage, with the customs of Paris, and constituting, as a supplement, one system with them, seems to have been considered as of their body, and transferred with them to Louisiana.† In 1717, Crozat transferred his rights to the Compagnie d'Occident, at the head of which was the famous Law, 8. Raynal. 166. [edit. 1780.] which again in 1720, by union with others, became the Compagnie des Indes, who in 1731, surrendered the colony back to the king. 1. Valin, 20. But these various transfers from company to company, of the monopoly of their commerce, for that was the sum of what was granted them, and their final surrender to the king, could not affect the rights of the people, nor change the laws by which they were governed. When they returned to the immediate government of the king, their laws passed with them, and remained in full force until, and so far only as, subsequently altered by their legislator. That this was the sense of their *government may be inferred 26* from a clause in the edict creating the Compagnie des Indes Occidentales, art. 34.

† If it be objected that the incorporation of the Roman law with the customs of Paris, and their joint transfer to Louisiana does not appear, I answer, 1. At the date of Crozat's charter, the Roman law had for many centuries been amalgamated with the customary law of Paris, made one body with it, and its principal part. By the customs of Paris were doubtless meant the laws of Paris, of which the Roman then made an important part, and might well be understood to be transferred with them. It was hardly intended that the new colonists were to unravel this web, and to take out for their own use only the fibres of Parisian customs, the least applicable part of the system to their novel situation. 2. If the term, coutumes de Paris in the charter be rigorously restrained to its literal import, yet the judges of Louisiana would have the same authority for appealing to the Roman as a supplementary code, which the judges of Paris and of all France had had; and even greater, as being sanctioned by so general an example. 3. The practice of considering the Roman law as a part of the law of the land in Louisiana, is evidence of a general opinion of those who composed that state, that it was transferred, and of an opinion much better informed, and more authoritative than ours can be. Or it may be considered as an adoption, by universal, though tacit consent, of those who had a right to adopt, either formally, or informally, as they pleased, as the laws of England were originally adopted in most of these states, and still stand on no other ground.

'Seront les juges établis en tous les dits lieux tenus de juger suivant les lois et ordonnances du royaume, et les officiers de suivre et se conformer à la coutume de la Prevôté et vicomté de Paris, suivant laquelle les habitans pourront contracter, sans que l'on y puisse introduire aucune autre coutume, pour éviter la diversité. 1. Moreau de St. Mery, 100.

'The judges established in all the said places shall be held to adjudge according to the laws and ordinances of the kingdom, and the officers to follow and conform themselves to the customs of the Prevoté and vicomté of Paris, according to which the inhabitants may contract, without that any other custom may be introduced, to avoid diversity.' 1. Moreau de St. Mery, 100.

Alluvion.

This then is the system of law by which the legal character of the facts of the case is now to be tested: and the plaintiff and his counsel having imagined that, in the Roman branch of it, they had found a niche in which they could place the batture to great advantage, have availed themselves of it with no little dexterity, and by calling it habitually an alluvion, have given a general currency to the idea that it is really an alluvion: insomuch that even those who deny their inferences, have still suffered themselves carelessly to speak of it under that term. Were we, for a moment to indulge them in this misnomer, and to look at their claim as if really an alluvion one, the false would be found to avail them as little as the true name. The Roman law indeed says, 'quod per alluvionem agro tuo flumen adjecit, jure gentium, tibi adquiritur.' 'What the river adds to your field by alluvion, becomes yours by the law of nations. Institute. L. 1. tit. 1. §. 20. Dig. L. 41. tit. 1. §. 7. The same law, in like manner, gave to the adjacent proprietors, the sand bars, shoals, islands rising in the river, and even the bed of the river itself, as far as it was contracted or deserted. Inst. 2. 1. 22. and 2. 1. 23. But the established laws of France differed in all these cases.

'Par notre droit Français, dit Pothier, les alluvions qui se font sur le bord des fleuves, et des rivières

'By our French law, says Pothier, one of their most respected authorities, the alluvions formed on the

navigables, appartiennent au roi. Les propriétaires riverains n'y peuvent rien prétendre, à moins qu'ils n'ayent des titres de la concession que le roi leur aurait faite du droit d'alluvion.' 1. Pothier. *27 Traité de la propriété. *1 Part. c. 2. §. 3. art. 2. No. 159.

borders of navigable streams and rivers belong to the king. The proprietors of riparian heritages can have no claim to them, unless they have evidences of the grant made to them by the king, of the right of alluvion along their heritages.' Pothier, Part 1. c. 2. §. 3. art. 2. No. 159. cited Derbigny, xviii.

And Guyot, in the Répertoire Universel de Jurisprudence, a work also of authority and cited with approbation by the plaintiff and his counsel, [Liv. 21. Du Ponceau, 14.] under the word 'île,' says,

'Nous n'admettons pas comme les Romains, les alluvions, et les accroissemens, au profit des propriétaires riverains, soit par les changemens qui peuvent survenir dans le lit des rivières, soit relativement aux îles, et îlots qui peuvent s'y former. Chez eux le lit, et les bords des fleuves et rivières étaient censés faire partie des héritages riverains ; et par une suite de ces maximes, le terrain qu'un fleuve ajoutait à ces héritages, appartenait à ceux qui en étaient propriétaires. Ils réunissaient de même à leurs possessions le lit que le fleuve abandonnait ; et lorsqu'il se formait une île dans le milieu de son lit, les riverains y avaient un droit égal, et en partageaient la propriété. Suivant nos principes, les rivières navigables, leur lit, rives, et tous les terrains qui peuvent s'y former, appartien-

'We do not admit, as the Romans, alluvions and accumulations to go to the riparian proprietors, either by changes which may happen in the bed of rivers, or relating to isles, and islets which may there be formed. With them the bed and borders of rivers and streams were considered as making part of the riparian inheritances ; and as a consequence of these maxims, the earth which a river added to these inheritances, belonged to those who were the proprietors of them. They reunited in like manner to their possessions the bed which a river abandoned, and when an isle was formed in the middle of its bed, the riparians had an equal right to it, and divided the property. According to our principles, navigable streams, their bed, banks, and all the grounds which may be formed there, belong to the king, in right

nent au roi, à raison de sa souveraineté. C'est la disposition précise de l'article 41. du tit. 37 de l'Ordonnance des eaux et forêts de 1669, qui a dissipé tous les doutes que l'on cherchait à faire naître dans plusieurs provinces, sur les fondemens des énonciations qui se rencontraient dans les anciennes concessions.

of his sovereignty. It is the precise provision of art. 41. tit. 37. of the Ordonnance des eaux et forêts, which has dissipated all the doubts which they had endeavored to raise in several provinces, on the grounds of the enunciations which were found in the ancient concessions.' Cited Derbigny 23.

Again, after laying down the Roman law of alluvion, and of islands formed in the beds of rivers, Le Rasle, in the law Dictionary, forming a part of the Encyclopédie Méthodique. Jurisprud. accession. 94, says,

'Nous n'avons pas suivi dans notre droit Français les
*28 *dispositions Romaines à cet égard; toutes les isles ou autres attérissemens qui se forment dans les rivières appartiennent au roi, et font partie du domaine. Les terres ajoutées par alluvion aux héritages baignés par le fleuve et les rivières navigables, n'appartiennent aux riverains, que lorsqu'ils ont un titre de concession qui leur permet de se les approprier.'

'We have not in our French law followed the Roman provisions in this respect; all islands or other accumulations which are formed in rivers, belong to the king, and constitute a part of the domain. Lands added by alluvion to inheritances washed by rivers and navigable streams, do not belong to the riparians but when they have a deed of concession which permits them to appropriate them to themselves.'

And Ferriere, quoted also by the plaintiff, says,

'Pour ce qui regarde l'augmentation arrivée à un héritage subitement et tout d'un coup, la décision que les loix Romaines ont faites à cet égard n'est point observée dans le royaume. Cette augmentation appartient au roi, dans les rivières

'As to augmentations happening suddenly and all at once, the decision of the Roman laws in this respect, is not observed in the kingdom. These augmentations belong to the king in navigable rivers.' And Denizert agrees, 'that atter

navigables.' And Denizert agrees, 'que les attérissements formés subitement dans le mer, ou dans les fleuves ou rivières navigables, appartiennent au roi, par le seul titre de sa souveraineté.'

rissements formed suddenly in the sea, or the navigable rivers or streams, belong to the king in the sole right of his sovereignty.'

And he refers to the edicts of 1683. 1693. and 1710.

And to put aside all further question as to the law of France on this subject, Louis XIV. by an edict of December 15, 1693, says,

'Louis, &c., Greeting. The right of property which we have in all rivers and navigable streams of our kingdom, and consequently in all the isles, mills, ferries, &c. accumulations and increments formed by the said rivers and navigable streams, being incontestibly established by the laws of the state, as a necessary consequence and dependence of our sovereignty, the kings, our predecessors, and ourselves, have from time to time ordered inquiries as to isles and increments therein formed, &c. For these causes, with the advice of our council, and of our certain knowledge, full power and royal authority, we have by these presents, signed with our hand, declared, enacted and ordained, and we do declare, enact and ordain, we will, and it is our pleasure that all the holders, proprietors, or possessors, of isles, islets, accumulations, increments, *alluvions*, rights of fishery, tolls, bridges, mills, ferriers, pack-

'Louis, &c. salut. Le droit de propriété que nous avons sur tous les fleuves et rivières navigables de notre royaume, et conséquemment de toutes les isles, moulins, bacs, &c. attérissemens et accroissemens formés pas les dites fleuves et rivières, étant incontestablement établi par les lois de l'état, comme une suite et une dépendence nécessaire de notre souveraineté, les rois nos prédecesseurs et nous, avons de tems en tems, ordonné des recherches des isles et crémens qui s'y sont formés, &c. A ces causes, de l'avis de notre conseil et de notre certaine science, pleine puissance et autorité royale, nous avons par ces *présentes, signées 29* de notre main, dit, statué et ordonné, disons, statuons et ordonnons, voulons et nous plait, que tous les détenteurs, propriétaires, ou possesseurs des îles, îlots, attérissemens, accroissemens, *alluvions*, droits de pêche, péages, ponts, moulins, bacs, coches, bateaux, édi-

ets, bateaux, edifices and imposts on the navigable rivers of our kingdom which shall produce titles of property or of possession before the 1st of April, 1566, shall be therein maintained and secured in their possessions, on paying to the treasury one year's revenue, and those without title papers, or possession prior to the 1st of April, 1566, on payment of two years' revenue.'

fiees et droits sur les rivières navigables de notre royaume, qui rapporteront des titres de propriété ou de possession, avant le 1er Avril, 1566, y soient maintenus et conservés dans leurs possessions, en payant au fisc une année, et ceux sans titre, ni possession antérieurs au 1er Avril, 1566, en payant deux années de revenu.'

Having no copy of this Ordinance, I quote it from Mr. Derbigny, p. 20. Duponçeau, p. 10. and l'Examen de la Sentence, p. 8, by putting together the parts they cite, for neither gives the whole of what I have cited. Other respectable authorities might be produced, to the same effect, were it necessary to multiply them: and it is also admitted that authorities of weight, and of a different aspect exist, among these is Dumoulin, as respectable as Pothier, Guyot, or any other who has been cited. Were it absolutely incumbent on me, more than on those who rely on the contrary authorities, to assign reasons for a difference of opinion among lawyers, on any point, it might be ascribed in this case to a difference of impression from views on the same subject, diversified as were the customs of the various provinces of France, on this very point. Dumoulin wrote a century and a half before the Ordinance of Louis XIV. In that course of time printing had become more diffused, books greatly multiplied, and a more correct collation of these customs could be made. So that had Dumoulin written in the days of Pothier and Guyot, and with their advantages, he would probably have concurred in the preceding observation, that, 'if there were any doubts, this Ordinance has dissipated them.' Be this as it may, Louis XIV. and his council have decided between these two opinions, and if it were not law before, his decision made it so. By this edict he declares the law of France, 'incontestably,' to be that '*Alluvions*

belong to the king in all navigable rivers.' But with a spirit*
of indulgence, meriting more respect than he has found
*30 in the language of the adverse party who dislike the truths
he has declared, he confirmed all anterior usurpations, on payment of certain compositions and future rents, re-establishing, by the example, the authority of the laws, and rights of the crown against these usurpations. This Ordinance was passed 19 years before the charter to Louisiana, and consequently was comprehended among the edicts and ordinances originally established as the law of the Province.

Mr. Livingston and his advocates have asserted that the right to the beds and increments of rivers, is a gift of the feudal system to the sovereign, that is, to the nation, and is a peculiarity of that system: and further, that that system was never introduced into Louisiana. That the latter assertion is palpably erroneous, could be readily shown, were not the question altogether unnecessary. With respect to the former, surely it is putting the cart before the horse to say, that the authority of the nation flows from the Feudal system, instead of the Feudal system flowing from the authority of the nation. That the lands within the limits assumed by a nation belong to the nation as a body, has probably been the law of every people on earth at some period of their history. A right of property in moveable things is admitted before the establishment of government. A separate property in lands not till after that establishment. The right to moveables is acknowledged by all the hordes of Indians surrounding us. Yet by no one of them has a separate property in lands been yielded to individuals. He who plants a field keeps possession till he has gathered the produce, after which one has as good a right as another to occupy it. Government must be established and laws provided, before lands can be separately appropriated, and their owner protected in his possession. Till then the property is in the body of the nation, and they, or their chief as their trustee, must grant them to individuals, and determine the conditions of the grant. In certain countries, they have granted them on a system of conditions and principles which

have acquired the appellation of Feudal. Surely then it is the sovereign which has created the Feudal principles, and not these principles which have created the rights of the sovereign. The Edinburgh Reviewers, [No. 30. 339. Jan. 1810.] who in the progress of their work have deservedly attained a high standing in the public estimation, reviewing the condition of land-tenures among the Hindoos, say, 'the territory of the nation, belonging in common to the nation, belongs, in this general sense, to the king, as the head and representative of the nation. As far accordingly as we have sufficient documents respecting rude
*31 nations, *we find their kings, *without perhaps a single exception*, recognized as the sole proprietors of the soil.' And they quote as their authorities,

In Europe.

For Wales, Leges Walliæ. c. 337.

Great Britain. The Bretons while they held the whole island, Turner's Anglo Saxons, c. 3.

Gaul and Germany. Cæsar, 4. 1. To which add Spain, Portugal, Italy, and all feudal states.

In Asia.

For China. Barrow. 397.

India. Montesq. Sp. L. 14. 6. Scott's Ferishta, vol. 2. 148—495. 2. Bernier, 189.

Persia. 3. Chardin, 340. Syria and the Turkish dominions. 2. Volney, 402.

In Africa.

For Egypt. Herodot. 2. 109. Volney passim.

Other parts of Africa. 4. Hist. gen. des voyages 13. v. do. 7. 5. 17. Mod. Univ. Hist. 322. Parke, 260.

In America.

For the Spanish part. Acosta 6. 15. and 18. Garcilaso, 1. 5. 1. Carli. letter 15.

For the United States and the Indian hordes of our continent, we cite our own knowledge.

It seems then to be a principle of universal law that the lands of a country belong to its sovereign as trustee for the nation. In granting appropriations, some sovereigns have given away the increments of rivers to a greater, some to a lesser extent, and some not at all. Rome, which was not feudal, and Spain and England which were, have granted them largely; France, a feudal country, has not granted them at all on navigable rivers. Louis XIV. therefore was strictly correct when in his edict of 1693, he declared that the increments of rivers were incontestably his, *as a necessary consequence of the sovereignty.* That is to say, that where no special grant of them to an individual could be produced, they remained in him, as a portion of the original lands of the nation, or as new-created lands, never yet granted to any individual. They are unquestionably a regalian, or national right, paramount, and pre-existent to the establishment of the feudal system. That system has no fixed principle on the subject, as is evident from the opposite practices of different feudal nations. The position, therefore, is entirely unfounded, that the right to them is derived from the feudal law; and it is consequently unnecessary to go into the proof of what the grants in that country *exhibit palpably enough, that 32* infeudations were partially at least, if not generally, introduced into Louisiana.

It ought here to be observed however that, so far as respects the beds and navigation of rivers, the right vested in the sovereign is a mere trust, not alienable. It is not like lands, imposts, taxes, an article of public property constituting the revenues of the state, but like roads, canals, public buildings, reserved for the use of the individuals of the nation. See an explanation of this subject, Vattel 1. 235. 239.

I have now to advert, and I do it with extreme regret, to a passage in the very able Memoire of M. Thierry, a Memoire conspicuous for its learning and sound reasoning, and to which I acknowledge myself peculiarly indebted

M. Thierry.

for information on the points he has discussed. He says, p. 30. 'To the ancestors of John Gravier the right of alluvion belonged, not only by virtue of the Coutumes de Paris, which for two centuries back acknowledged the principle of the Roman law, and against which, for that reason, the Ordinances of the kings of France could with no manner of success be pleaded, inasmuch as a royal ordinance specially made that Coutume the civil law of this colony; but also by virtue of the Spanish laws, which from 1769, have been constantly in force in Louisiana.' 1. That the Roman principle of Alluvion was acknowledged by the Coutumes de Paris has not been proved. The adverse counsel, [Dupon. p. 9.] has said indeed, that those Customs were silent on this subject. But I have considered Pothier, Guyot, and Le Rasle as better authority. 2. Mr. Thierry supposes that a Royal Ordinance having specially made that Coutume the civil law of Louisiana, the Ordinances of the kings of France were excluded from the system, and could not control what was Coutume. He had not, I presume, seen the charter of 1712, which makes the edicts and *ordinances*, with the Coutume de Paris, the law of that province; nor sufficiently considered that had the Coutumes been alone established by one ordinance, another might change them. 3. He supposes the Spanish laws have given Alluvions to the riparian proprietor. But the laws of the province, established by their charter, were not annulled by the change of one king for another, as their legislator. The latter might change them. But has he done so? If he has, his edict must be produced, that we may weigh its words, and judge of its effects for ourselves. And we must guard against admitting that the example of a Spanish Governor, if such example has occurred, occasionally and incorrectly acting on the laws of Spain, amounted to a repeal of the whole system then existing, and a formal establishment of a different one. No such intention on
*33 his part, *to make so momentous a change, should be so slightly inferred; and no power of his could effect it, even if intended. Nothing less than an Ordinance of the Sovereign himself, signed with his own hand, and sanctioned by all

the solemnities attending their enactment and promulgation, was competent to reverse at once the legal condition of a whole people, and the laws under which their lives and properties were held. Again, even such an ordinance could not change the law as to past rights; and those now in question were vested before the Spanish government took place, and could not be annulled by a subsequent law. These gratuitous admissions, therefore, of Mr. Thierry, not at all necessary to his argument, and therefore probably not well considered, and in opposition to the opinions and demonstrations of an able brother counsellor (Mr. Derbigny), must be disavowed, and the authority of the Ordinance of 1693 insisted on with undiminished confidence. Mr. Thierry himself will perhaps the more readily abandon them, when he sees with what avidity his eagle-eyed adversary has pounced upon them in a letter to some member of the government, in which he considers them as giving up all ground of opposition to his claims.

To that edict then I shall now recur; and to the cavils raised against it by the advocates of the claims it annihilates. It is idle for them to call it bursal, fiscal, and the act of a tyrant, &c. [Duponc. 10.] as if the authority of laws was to be graduated by the character of the existing legislator; and as if we were to be the judges, for other nations, of the character and obligation of their laws. It is vain to pretend that because the word 'Alluvion,' inserted in the enacting clause of the edict, is not in the preamble, therefore it has no force in the body of the law: as if the preface, giving the general reason and views of the law, was alone to be the law, and its actual enactments a mere nullity. Although the preamble of a statute is considered as a key to open the mind of the makers as to the mischiefs in their view, yet in general it is no more than a recital of some inconveniences, which does not exclude any other for which the enacting clauses provide; nor must the general words of an enacting clause be restrained by the particular words of the preamble. 6. Bac. Abr. Statute. I. 2. and the authorities there stated. So says our law; so says reason; and

Edict of Louis XIV.

so must say the Roman law, if it be ratio scripta. But it is further to be observed that the words 'attérrissements and accroissements,' accumulations and increments, used in this preamble are generic terms, of which 'Alluvion' is a species, and therefore strictly comprehended by it. This is proved *34 by the Roman definition, 'Alluvio est *incrementum** latens,' 'alluvion est un accroissement ou crement imperceptible,' by the Napoleon code cited by Mr. Livingston:

Napoleon Code.

'Les attérissements et accroissements qui se forment successivement et imperceptiblement aux fonds riverains d'un fleuve, ou d'une rivière, s'appellent Alluvion.' §. 556

'The accumulations and increments which form themselves successively and imperceptibly against the riparian lands of a river or stream are called Alluvion.' Sect. 556.

Portalis

And by the edicts of 1686 and 1689, both of which have the expression '*crémens* qui s'y sont formés, soit par *alluvion*, ou par industrie, &c. And here Portalis's rhetorical flourish, on presenting this law, is cited, [Duponc. 17. Liv. 22.] with triumph, as declaring that this law terminates the great question of Alluvion, and decides it conformably to the Roman law. It is very true indeed that it has terminated the question as to future cases, by changing the law, by transferring the right of Alluvion from the sovereign to the riparian proprietor, by giving the abandoned bed of a river, as an indemnification to him on whose land it has opened a new passage, and making this the future law of all the provinces. And had Louisiana then been subject to France, the law would have been changed *thenceforward*, for Louisiana also. I find no fault with Napoleon for this Roman predilection. I believe the change is for the better, so far as concerns rural possessions. A decision too of the parliament of Bordeaux is quoted by Mr. Duponceau 19. to prove that the law giving Alluvion to the adjacent possessor has been acknowledged in France by the decision of the parliament of Bordeaux, confirmed, *as he has heard*, on appeal by the parliament of Paris. This proves only that the Roman law

of alluvion was the law of the Generality of Bordeaux, not that it was then the law of all France. In the country called the Bordelois, Customary laws prevail. But

'Lorsque la coutume de Bordeaux ne s'est pas expliquée sur certains points de droit, ce n'est ni à la coutume de Paris, ni à d'autres coutumes qu'on a recours pour les faire décider, mais au droit écrit.' Enc. Meth. Jurisp. Bordeaux.'

'When the Custom of Bordeaux has not sufficiently explained itself on certain points of law, it is neither to the Customs of Paris, nor to other customs that recourse is had for decision, but to the written law,' that is, the Roman law.

The inference then is, either that the Coutume de Bordeaux was the same on this point as the Roman law, or, that being silent, the Roman law was referred to.*

*35 *Surely never was the urgency of squeezing argument out of everything so apparent, as in the emphasis with which the adverse party presses and comments, [Liv. 32.] on the answers of the several tribunals, to which the Napoleon Code was referred for consideration and amendment. A dozen tribunals are named, with an &c. for more, who are acknowledged to have said nothing about alluvion: and this is produced as proof that it had belonged before to the riparian proprietor. But it proves more probably that these tribunals were contented with the change proposed, and had no amendment of it to offer. But, in truth, it proves nothing either the one way or the other. The tribunal of Paris is then quoted, with an acknowledgment that they do not make a single observation on the subject. Then long extracts from that of Rouen, proposing that *islands*, rising in the rivers, shall be given to the riparian proprietors: and recommendations to the same effect from those of Toulouse and Lyons. Now it is remarkable that neither the word 'Alluvion,' nor the idea of the thing, is either expressed or referred to in any one of

* M. Moreau de Lislet assures us that he was in Paris at the time of the decision of this appeal from Bordeaux, that the decision of Bordeaux was reversed by the king and council, then referred to the Parliament of Paris, and the reversal confirmed by that body. See his Memoire, 50.

these quotations. And yet Mr. Livingston says, 'we find all these learned men either passing over these articles, as merely declaratory of the old law, or else *expressly acknowledging them* as such;' and again after the citation from Rouen, 'here we have the positive declaration of a learned tribunal, &c. deciding that the edicts did not extend to alluvions, but only to islands in navigable rivers.' And yet I repeat that neither the word nor the idea is to be found in any one of the quotations; for it is of these only I can speak, not possessing the book, but I presume Mr. Livingston's quotations are of the strongest passages. It is impossible to characterize such reasoning respectfully. I shall therefore leave it to the reflection of others. And I think myself authorized to conclude on the whole, that had the Batture been really an Alluvion, its ownership was to be decided by the laws of France; and that Louis XIV. with the advice of his council, certainly knew when they declared what the law of their country 'incontestably' was; and if we, with our scanty reading on the subject, at this day and distance, know better than they did, yet the enacting clause of the edict made it the law *thenceforward;* that it came over as law for Louisiana, made the batture, if an alluvion, the property of the sovereign; and certainly the whole tenor of the conduct of the Spanish government proved that they did not mean to relinquish it.

Before we quit this branch of the discussion, it is not amiss to
*observe that the eloquent declamations of these learned
*35 men of Rouen, so much eulogized by Mr. Livingston,
were not at all heeded. The Napoleon code, §. 560. retained the *islands* rising in the beds of navigable or floatable rivers, and (changing the French law only as to alluvions) declares, §. 538. in opposition to the Roman law, that

'Les fleuves et rivières navigable ou flottables, les rivages, lais et relais de la mer, les ports, les havres, les rades, &c. sont considérés comme le dépendances du domaine public.'

'Rivers and navigable or floatable streams, shores, increments and decrements of the sea, ports, harbors, roads, &c. are considered as dependances of the public domain.'

So that notwithstanding the 'persuasive and conclusive arguments of these first lawyers of the country,' Liv. 31. the French law as it stands at this day, and stood before, would have given the batture to the public, being unquestionably the *rivage or shore of the river.†

* 'Rivage, is most commonly used for the shore of the *sea*, but correctly also for the shore of a river.

'Chaque fleuve, chaque ruisseau
A partout franchi son rivage.' Regnier. Dict. de Richelet. Rivage
'Le Tybre écumeux et bruyant
De sa course fougueuse étonne son rivage.' St. Evremont.

It is particularly so used in Law. 'Sous le nom de *rivage* est compris le chemin qui doit être entretenu le long des côtes et rivières navigables, pour le hallage des bateaux.' And again, 'droit de rivage, qui est dû sur les marchandises qui abordent au rivage de la ville de Paris.' Dict. de Trévoux, Rivage. 'Sur le rivage de la Seine.' Dict. de l'Académie.

† Little versed in French jurisprudence, possessing few of the authors teaching it, and, of some of those quoted by the adverse party, so much only as they have thought to their advantage to quote, I had apprehended it possible (pa. 29.) that there might be among those authors, that conflict of opinions on the law of alluvions, which these quotations indicate. But I have lately had an opportunity of reading in MS. a Memoire on the subject of the Batture, written by M. Moreau de Lislet of New Orleans, a French lawyer of regular education in the profession, who has treated the subject, generally with great learning and abilities, and especially that branch of it which relates to the laws of France in cases of Alluvion. He has proved that the doctrines of these great authorities are not contradictory, and that a proper attention to the different questions under contemplation in the passages quoted, will show that all are right, and all in perfect harmony. To elucidate this he explains certain principles of French law, which mingling themselves with this subject, have occasioned the misunderstanding with which we have been perplexed. 1. The laws of France leave to the king a right to *navigable* rivers only, and their increments. On rivers *not navigable*, the rights of the riparian proprietor prevail as under the Roman law. See Pothier ante. pa. 26. Very early however these rights were drawn into question by the Feudal Superiors, who, looking to the example of the king in the case of *navigable* rivers in his kingdom, claimed similar rights on those *not navigable* within their Seignories. But repeated decisions have condemned their claims, and confirmed the rights of the riparian tenant. 2. By the laws of France, as by those of England, lands received by inheritance, descend, on the death of the tenant, to the heirs of that branch, paternal or maternal, from which they came to him. But those he acquires by purchase (acquets) pass to that line of heirs of which himself is the root. When therefore, to a maternal inheritance an acquisition happened to be made by means of Alluvion, a question would arise, between heirs of different lines, to which of them the Alluvion would descend; whether to the direct heirs of the

*I will now proceed further and say, that had the batture been an alluvion, and to be decided by the Roman,
*37 instead of the French law, the conversion of the planta-

decedent, as being an acquisition first vesting in him, or to the maternal heir as an accessory to his inheritance. The decisions were that it united with the inheritance, became a part of that, and passed with it. 'Incrementum alluvionis nobis adquiritur, jure quo ager augmentatus primum ad nos pertinebat; nec istud incrementum censetur novus ager sed pars primi.' 'The increment of Alluvion is acquired to us in the right in which the field augmented first belonged to us.' Nor is the increment considered as a new field, but a part of the first, Renusson. It follows that questions of Alluvion would often arise in cases wherein the king's rights were not at all concerned. They would arise between Lord and vassal, and between individual heirs of different lines. These explanations premised, M. Moreau takes a review of the passages quoted from Henrys, Bourjon, Dumoulin, Ferriere, Pothier, Le Rasle, Renusson, Dargentré, Denisart, and Guyot, and shews that in every instance where the question concerned a *navigable* river, there was no division of opinions as to the validity of the king's right; and that in every instance where the riparian right is asserted, the question has been between private individuals, or concerning rivers *not navigable*. Recurring then to the edicts and Ordinances placing this right of the king beyond cavil, he observes that a practice had prevailed from early times among riparian proprietors of usurping on the rights of the crown to the increments adjacent to them, and a necessary reaction of the crown, by reclamations and resumptions, to preserve its own. And he gives a detail of the edicts on this subject, proving that that of 1693, instead of being the singular act of a particular prince, whom the adverse party delights to revile, was one only of a long series preceding and following it.

1554. An edict was issued requiring the proper officers to be vigilant in watching over the king's rights in islands, attérissements, et *alluvions*, comme ils l'ont accoutumés faire d'ancienneté.' So that it was even then a law and practice d'ancienneté, and expressly including *alluvions*.

1664. An Ordinance for making enquiries concerning islands, accroissements, &c.

1668. Apr. An Edict quieting possessions of these objects of 100 years continuance, on paying a vingtième annually.

1669. The Ordinance des eaux et forêts, 'qui accorde au roi la propriété de toutes *les rivières navigables*, de leur lit, *rives*, et de tous les terreins qui peuvents s'y former.' Guyot, ante. pa. 27. 'granting to the king the property in *all navigable rivers*, their bed, *banks*, and the grounds forming there.'

1683. Apr. A declaration, reciting that as the rivers belong to the king 'tout ce qui se trouve renfermé dans leur lit, comme les isles, accroissemens et attérissements lui appartient aussi,' confirms *title* anterior to 1566 without condition, possessions anterior to 1566 on conditions, and reunites all others to the crown.

1686. Apr. } Two edicts for Languedoc and Bretagne, confirming possessors in
1689. Aug. } the said islands, 'ensemble des crémens qui s'y sont formés, et de

tion of Gravier into a *suburb, made it public property. And here I rejoin with pleasure the standard of M. Thierry, and avail myself of his luminous discussion of this point. 38*

ceux qui pourraient s'y former à l'avenir, soit par *alluvion*, ou par industrie.'

1693. An edict general for the kingdom 'le droit de propriété que nous avons *sur tous les fleuves et rivières navigables* étant incontestable, &c. Ordonnons que les détenteurs des isles, islots, attérissemens, accroissemens, alluvions, &c. *sur* les *rivières navigables*, &c. as more at large, pa. 28.

1710. Feb. An edict confirming possession of islands, &c. of the sea on specified terms, copied almost verbally from that of 1693, using the word *alluvions* as that does, and referring to the provisions of that edict.

1722. Sep. An Arret resuming isles, attérissemens, &c. formed since the edict of 1693. And those of anterior formation where the possessor has not made the payments provided by the edict of 1693.

But this whole branch of the argument of M. Moreau must be read with attention. Its matter cannot be abridged, nor otherwise expressed, but for the worse.

Having thus luminously reconciled the authorities which had been so illy understood, and victoriously established the public right to alluvions on *navigable rivers*, M. Moreau, with too much facility, gives back to his adversary one half the ground he has conquered, by a gratuitous admission, which those interested in the event of the cause are not ready to confirm. Led away, as it seems, by an expression in the edict of 1683, 'tout ce qui se trouve renfermé *dans leur lit* nous appartient,' and which is to be found in no other, and yielding to a single decision of the Parliament of Paris of 1765, found in a law dictionary, which adjudged that the Ordinances giving to the king the isles which are formed '*dans le lit*,' des fleuves et rivières navigables, ne lui donnent pas les attérissements et *alluvions* qui peuvent se former *hors* le lit de ces mêmes fleuves,' &c. He admits that though alluvions *within* the bed of a river belong to the king, those *without* the bed do not belong to him. M. Moreau is too reasonable to consider as a compliment to himself the adoption of an opinion on his authority alone, by any one not convinced by his reasonings. Certainly I do not feel myself competent to enter the lists with him, on any question of difficulty in the French law. Yet after maturely considering the authorities appealed to in this case, and which he has rendered so strong by reconciling and forming them into one mass, I cannot yield, as he does, so imposing a mass to a single decision of the single Parliament of Paris. I still must consider all alluvions on *navigable rivers* as belonging to the nation, and will briefly assign my reasons.

1. It is of the essence of *Alluvion* that it be, not *in* the bed of the river, but *out* of it; that is, adjacent to the bank. So say expressly the Roman and French definitions. 'Alluvio est incrementum *agro* tuo flumine adjectum.' l'Alluvion est un accroissement de terrein qui se fait *sur les bords* des fleuves, par les terres que l'eau y apporte, et qui se consolident pour ne faire *qu'un tout avec la terre voisine*.' Ante. pa. 26. Increments *within* the bed of a river, though sometimes carelessly spoken of under the term *alluvion*, are never so in correct language,

Were I fully to go into it, I could *but repeat his matter. I shall therefore give but a summary view of it, and rest on his
*39 argument for its more detailed support.

never in the well weighed diction of ordinances and statutes. They are termed accroissements, attérissements, assablissements, isles, islots, javeaux, in French, and in our language shoals, shallows, flats, bars, islands. *Without* the bed of the river, they add to the beach, or to the adjacent field, according to their elevation, and in this last case only, constitute *Alluvion*, *within* the bed of the river they lose that name.

2. 'Les alluvions qui se forment *dans* le lit des fleuves' is not the language of the edicts cited by Moreau himself, not even of that single one on which this opinion is founded. That has indeed the expression 'dans les lits,' but applied, not to alluvions, but to isles, accroissements, attérissements, to which it is applicable with truth and correctness. These are the kinds of increments it enumerates, and describes as being 'dans le lit.' If they are enumerated *exempli gratiâ* only as the word *comme* seems to imply, and alluvions, though not named, were within the purview, as they are within the reason of the law, then, if the thing itself is to be understood, as if expressed in the text, its true description also is to be understood as if expressed, that is to say, its adjacence to the bank. The edicts of 1686 and 1689 mention 'les isles des rivières navigables, ensemble les crémens qui *s'y* sont formés.' That of 1693 says, in like manner, 'le droit, &c., *sur* tout les fleuves, et les isles et crémens qui *s'y* sont formes,' and again, 'isles et alluvions *sur* les rivières navigables,' not '*dans leurs lits.*' That of 1710 says 'possession des isles et *alluvion sur* les dites rivières.' Thus we see that wherever the edicts mention *alluvions*, they describe them *sur* le fleuve, not *dans le lit* du fleuve. When they speak of those increments which are *dans le lit* des fleuves, they name them as accroissemens, attérissemens, &c., but not as *alluvions*.

3. This distinction is founded on a single decision of a single parliament, and on the authority of a king's advocate, Bacquet, and the dictum of Salvaing there cited, all perhaps influenced by the same and single expression in the edict of 1683. It is cited too from a Dictionary by Prost de Royer, where it is doubtless stated in abridgment only, and possibly with the omission of circumstances, arguments, and expressions which, were they before us, would change the aspect of the case, as M. Moreau himself has shown to be so possible in his review of the mutilated authorities produced by the adversary. And are we, for this, to give up the doctrines of Pothier, Denisart, Ferriere, and the host of other great authorities, and all the definitions of the Roman and French laws, all of which when speaking of *alluvions*, place them exclusively on the borders, and not in the beds of rivers? I cannot do it.

4. This distinction is new in this cause, having never been claimed by the plaintiff or his counsel, or suggested by any other who has treated the question. This naturally begets a suspicion that it is peculiar; though doubtless the adversary will adopt it with avidity. And is he entitled to this gratuitous aid? Is it the equity of his cause, or even its honesty, or its utility, which gives him this claim on our tenderness? I cannot consent to a concession which gives the Batture from the public in the contingency of its being considered as a real alluvion,

The position laid down is that the Roman law gave alluvion only to the rural proprietor of the bank; urban possessions being considered as prædia limitata, limited possessions. The law which gives this right is expressed in the Institutes in these words, 'quod per alluvionem *agro* tuo flumen adjecit, jure gentium tibi adquiritur.' Inst. 2. 1. 20. 'What the river has added, *agro tuo*, becomes yours by the laws of nations.' And the Digest 41. 1. 7. 1. in almost the same words says, 'quod per alluvionem *agro* nostro flumen adjecit, jure gentium nobis adquiritur.' In both instances it is to the possessor *agri* only that it is given. It becomes material therefore to understand rigorously the import of the word *ager*, in the Roman laws; and it happens that its definition is given

Rural and Urban.

consolidated with, and making part of, the adjacent field. On the contrary I insist on the public right in this case also, under the laws of France, as hitherto understood, and as declared by her highest authorities.

5. I adhere to this ground the more firmly, because I observe, from another part of his Memoire, pa. 99. that M. Moreau himself seems not very decided in this new opinion. After stating the mischief of Mr. Livingston's works, he says, 'it is to prevent a like abuse that the Roman and Spanish laws of haute police, which I have cited, are opposed to every species of works undertaken on the banks of rivers and navigable streams, the effect of which might be to extend the limits of riparian fields, compromising the public safety, and injuring the facility of navigation. It was with this view, and not to create fiscal resources for himself that Louis XIV. renewed the Ordinances which ascribed to the sovereign the property in rivers and navigable streams, and of whatever is contained in their bed. For if it be advantageous to navigation that the king should be proprietor of the islands which form themselves in navigable rivers, the same interest requires still more that he should be proprietor of the *alluvions* and increments formed *along the shore itself*, since any ownership of these objects, except that of the sovereign, might oppose obstacles to the free landing on the shore, which every one ought to have, and to the use of it which the law gives to the public.'

Considering this admission then, as doubted by M. Moreau himself on a second and sounder view of it, I conclude that the law is accurately laid down by Pothier [ante. pa. 26.] 'By our French law, alluvions formed on the borders of *navigable* streams and rivers belong to the king. The proprietors of riparian heritages can have no claim to them, unless they have documents of the grant made them by the king, of the right of alluvion along their heritages. With respect to alluvions formed along the borders of a river *not navigable*, the property of which belongs to the proprietors of the neighboring heritage, the dispositions of the Roman law are to be followed.'

critically by the same authority which uses it. 'Locus sine ædificio, in urbe *area*, *rure autem *ager* appellatur idemque
*40 *ager*, cum ædificio, *fundus* dicitur.' Dig. 50. 16. 211. 'Quæstio est, fundus a possessione, vel agro, vel prædio quid distet?' Ib. 115 *in notis*, 'fundus est ipsum solum: eo si utimur, prædium dicitur. *Ager* esse potest sine villâ.' 'Ground, without a building, in a city is called *area*, but in the country *ager*.' Pliny 1. 6. affirms that *ager* is derived from the Greek ἀγρὸς, of the same import. And in the Greek Pragmatics of Attaliata tit. 45. the law of alluvion uses 'ἀγρὸς' for *ager*. Τὸ ἀνέπαυθήτως διὰ τὸ ποταμῶ προσιεθὲν τῶ ἀγρῶ μὸ πρόσχωσις ἐξίν, ἤτοι ῥόσκλυσις, καὶ ἐμοὶ ἀρμόζει.' Quod insensibiliter τῶ ἀγρῶ μὸ per flumen adjectum est, alluvionis est, et mihi competit. 'What is insensibly added by the river *agro meo* is alluvion [*adundatio*, *adaggeratio*] and belongs to me.' In the same title 'ὅπερ ἐν τῶ ἀγρῶσοῦ σπείρωσόν ἐξιν.' 'What I sow ἀγρῶ σὸ *agro tuo*, in your *field*, is yours.' And Stephens, in his Thesaur. ling. Gr. voce ''Αγρὸς' translates it 'rus, ager,' 'ἐν ἀγρῶ in agro, ruri. 'Ἐξ ἀγροῦ, ex agro, rure. 'Εἰς ἄγρον, in agrum, rus.' And he cites examples: 'Νῆυς δέ μοι ἥδ' ἕζηκεν ἐπ' ἀγρῶ, νόσφι πόληος'. Hom. Od. 1. 185. 'My vessel is stationed in the *country*, apart from the city.' 'Διὰ τὸ μὴ μεγάλας εἶναι τότε τὰς ΠΟΛΕΙΣ, ἀλλ' ἐπὶ τῶν 'ΑΓΡΩΝ οἰκεῖν τὸν δῆμον ἄσχολον ὄντα.' Aristo. Polit. 5. 'Because, the *cities* not being then large, the people were occupied in the *country*, where ἀγρὸς is proved to be pointedly the contradiction to πόλις, to wit, the *country* to the *city*. From these definitions it appears that the word *ager*, in the law, constantly means a field, or farm, in the country, and that a city lot is called *area*. In towns, the whole bank and beach being necessary for public use, the private right of alluvion would be inadmissible; and the adverse counsel have been challenged [Thierry, 33.] to produce a single instance, under the Roman law, of a claim of Alluvion allowed in a city. To this might be added a similar challenge as to the laws of England. These give alluvion on rivers, as the civil law does, to the riparian proprietor. Bracton L. 2. c. 2. § 1. Fleta. L. 3. c. 2. Can they from the volumes of English law, with which they

are so much more familiar, produce one single instance of the private right of alluvion allowed in a city? In England, I mean, and not in America, where special circumstances have prevented attention to the law on this subject, or the breach of it. And this must be from the reason of the thing alone, because the common law never having been, like the civil law, reduced to a text, no verbal criticisms on a text can have co-operated against the claim.† Repeating, *therefore, my reference to the reasoning and authorities of M. Thierry 41*

† Since this was written, I have seen the case of Smart v. the magistrates, town council and community of Dundee, reported in 8 Brown's Reports of Appeals in parl. 119. This was an appeal from the court of Session in Scotland, to the H. of Lords. The crown of Scotland had in very ancient times, granted to the Corporation of Dundee, on the river Tay, the borough, with all the lands and pertinents, the privileges, profits, customs, ports, and liberties of the river on both sides, as freely in all respects as is possessed by the borough of Edinburgh over that of Leith, and in a word, as it seems, every right, power and trust which the crown could grant.—Smart, the proprietor of a lot bounded on one side per fluxum maris, or the sea flood, admitting that the sovereign, as trustee for the public, has a right to prevent all such appropriation of the sea shore, or the banks of navigable rivers as would impede navigation, render it dangerous or hurt the interests of commerce, either inland or foreign, and that all private persons or corporations, having a grant of a port and harbor, possess, to a certain extent, the same privileges as derived from the sovereign within a defined space, still he insisted on the right of the adjacent proprietor to ground gained from the sea by its recess, or by his own industry in embanking, or by any other opus manu factum, *not prejudicial to navigation or the established rights of others.* On the other hand the corporation claimed by their grant, a right to the seashore adjacent to the town, *in trust for the benefit of the community,* to make harbors, basons, and works for securing them, market places, wharves, wood yards, and other repositories for the accommodation of the trade, and, for these different works, to take in scites from the water by embankment, in short, as standing in place of the crown, that they succeeded to all the cares and powers of the crown, in the territory and its waters, for the public good; and, for that object, were now engaged in making an embankment adjacent to the Appellant's lot, for the benefit of navigation and commerce. They admit the general doctrine of the riparian right to the soil which may be acquired from a sea or river, by its receding naturally, or by industry: but that this does not apply to the site of a *tenement within a burgh,* where the corporation is entitled to all the soil not expressly granted away: that the words, 'per fluxum maris' are but words of description, which were accurate too at the date of the grant, but have since become otherwise by a change of character in the boundary, not in the area granted. They are a limitation of the subject of the grant in the same way as a road would be,

on this point, and my own conviction of their soundness, I consider it as established that, were this question to be decided by the Roman law, the conversion of the farm into a fauxbourg of the city passed to the public all the riparian rights attached to it while a rural possession, and among these the right of alluvion.

And, if the right of alluvion is not given to urban proprietors, much less would it to a mere holder of the bed of a road. But did any one ever hear of a *man's holding the bed of a road, and nothing else? Is it possible to believe that Bertrand Gravier, in selling his lots *face au fleuve*, really meant to retain the bed of the road and levee? That a man, having a road on the margin of his land, which is its boundary, should mean to sell his land to the road, and to retain that by itself? a thing of no possible *use* to him, because the *use* being in the public, he could never employ it in agriculture or otherwise. Were all this possible, yet this bed of a road, this "labrum amnis" would be no *ager*, no field to which the right of alluvion could attach. That right is but an accessory, or, in the language of our law, an appendage or appurtenance, and an accessory, not to a mere line, but to something of which it can become a part. Had the law, there-

Principal and accessory

*42

which, if removed farther off, would not carry the granted subject with it; or as the tenement of another would be; and make it an *ager limitatus*, not an *ager arcifinius*; the particular boundaries being named, not to limit the coterminous property, but the property granted. The Appeal was accordingly dismissed by the House of Lords. No arguments of counsel, other than the written pleadings, nor reasons of the Lords, are reported: but, from this case, (crowded as it is with circumstances, many of which are irrelevant to the merits of the question, and of those relevant not the words but the condensed substance is here given,) the book says, that the general principle to be gathered is that 'where the sea flood 'is stated as the boundary of premises granted on the shore of *a sea-port being an* '*incorporated borough*, this does not give the grantee a right to follow the sea, or 'to the land acquired from it, or left by it where it has receded, in prejudice of 'the *corporation* having, by their charter, a right vested in them to the whole 'territory of the burgh.' And consequently, in prejudice of the *king*, or *public*, where no such grant has substituted others in their place: and it authorizes a strong inference that the English, like the Roman law, restrains the right of alluvion to the *prædium rusticum*, not admitting it on the shores bordering the city.

fore, ever given alluvion to any but the holder of an *ager*, of a field, yet the general doctrines of principal and accessory, would not have carried the benefit to Bertrand Gravier in this case. 'Accessorium sequitur naturam sui principalis. Et in accessoriis, præstanda sunt quæ in principali. Accessorium non tenet sine principali. Sublato principali, tollitur et accessorium.' These are maxims of the civil law. Calvini lexicon jurid. 'An accessory follows the nature of its principal.' If the accession then be to a field, it becomes part of the field; if to a town, it would become part of the town; if to a road, the use of which belongs to the public, it would be to the road, and to the public. It must follow the nature of its principal, and become a part of that, subject to the same rights, uses and servitudes with that: and Bertrand Gravier had no right of use in the principal, that is, of the road and levee.

The equity on which the right of alluvion is founded is, that as the owner of the field is exposed to the danger of loss, he ought, as an equivalent, to have the chance of gain. But what equitable reason could there be, in the present case, for giving to Gravier the benefit of alluvion, when he could lose nothing by alluvion? If the levee and bank were washed away, they would not go to his plantation, back of the suburb, for a new one. The public would have to purchase a new bed for a road from the adjacent lot holders. Then 'qui sentit onus, sentire debet et commodum.'

But I do deny to the Batture every characteristic of Alluvion.

Beach or Batture not Alluvion.

The French and Roman law constituting that of the place, let us seek from them the definition of Alluvion. The Institute 2. 1. 20. gives it in these words, and the Digest. 41. 1. 7. §. 1. in almost verbatim the same.

'Quod per alluvionem agro tuo flumen adjecit, jure gentium tibi adquiritur. Est autem alluvio incrementum latens. Per alluvionem

'What the river adds by alluvion to your field becomes yours by the law of nature. Alluvion is a latent increase. That seems to

autem id videtur adjici, quod ita paulatim adjicitur, ut intelligi non possit quantum quoquo temporis momento adjiciatur.'

be added by alluvion, which is so added by degrees, that you cannot conceive how much in each moment of time is added.'

And in the Greek version of Theophilus, the words, 'Alluvio est incrementum latens' are rendered 'ἀλυβιων ἐζιν ἡ ηρόσκλυσις ἢ ηρόσχωσις,' translated by Curtius 'Alluvio est adundatio vel adaggeratio.' Retaining only the words of this paragraph which are definition it will stand thus.

'Alluvio est incrementum [*adundatio, adaggeratio*] agro tuo flumine adjectum, ita latens et paulatim, ut intelligi non possit quantum quoquo temporis momento adjiciatur.'

'Alluvion is an increment [*adundation, ad-aggeration*] added by the river to your field, so latent and gradual, that the quantity added in every moment of time cannot be known.'

This is the Roman definition.

In the Law Dictionary of the Encyclop. Method. *voce* 'Alluvion' by Le Rasle, the definition is:

'Alluvion, un accroissement de terrein qui se fait peu-a-peu sur les bords de la mer, des fleuves, et des rivières, par les terres que l'eau y apporte, et qui se consolident pour ne faire qu'un tout avec la terre voisine.'

'Alluvion, an increment of ground which is made by little and little on the border of the sea, rivers or streams, by earth which the water brings, and which is consolidated so as to make but one whole with the neighboring ground.'

To reduce the essential members of the Roman and French definitions to a single one, according with our own common sense, for certainly we all understand what alluvion is, I should consider the following definition as comprehending the essential characteristics of both.

1. 'Alluvion is an extension which the waters add insensibly.

'Incrementum flumine adjectum latens et paulatim.

2. By apposition of particles of earth.	{ προσχωσις, adaggeratio. προσκλυσις, adundatio.
3. Against the adjacent field.	*Agro.*
4. And consolidate with it so as to make a part of it.	Qui se consolide pour ne faire qu'un tout avec la terre voisine.'

I take this to be rigorously conformable with the French and Roman definitions, as cited from the authorities before mentioned, and that it contains not one word which is not within their unquestionable meaning. Now let us try the batture by this test.

1. 'Alluvion is an extension which the waters add insensibly.' But the increment of the batture has by no means been *insensible.* Every swell of six months is said [Derb xix.] to deposit usually nearly a foot of mud on the whole surface of the batture, so that, *when the waters retire, the in- 44*
crement is visible to every eye. And we have seen that, aided by Mr. Livingston's works, a single tide extended the batture from 75 to 80 feet further into the river, and deposited on it from 2 to 7 feet of mud, insomuch that a saw-scaffold, 7 feet high when the waters rose on it, was, on their retiring, buried to its top. This increment is, surely, not insensible. See the Mayor's answer to the Governor, Nov. 18, '08. MS.

2. 'By *apposition* of particles of earth,' or, by their *adhesion.* But the addition to the batture is by *deposition* of particles of earth on its face, not by their *apposition* or *adhesion* to the bank. It is not pretended that the bank has extended by apposition of particles to its side, one inch towards the river. It remains now the same as when the levée was erected on it. The deposition of earth on the bottom of a river, can be no more said to be an apposition to its sides, than the coating the floor of a room can be said to be plastering its walls.

3. 'Against the adjacent field,' la terre voisine. Not a particle has been added to the adjacent field. That remains as it was, bounded by the identical line, *crepido,* or *ora terræ,* which has ever bounded it.

4. 'And consolidated with the field so as to make part of it.' Un tout avec la terre voisine. Even supposing the continuity of the adjacent field not to be broken by the intervention of the levée and road, nothing is consolidated with it, not even with the *margo riparum*, or chemin de hallage, if there be any, between the levée and brim of the bank. No extension of its surface has taken place so as to form one with the former surface, so as to be a continuation of that surface, so as to be arable like that. The highest part of the batture, even where it abuts against the bank, is still materially below the level of the adjacent field. A terrass of some feet height still separates the field from the deposition called the batture. It is now as distinguishable from the adjacent field as it ever was, being covered with water periodically 6 months in the year, while that is dry. Alluvion is identified with the farmer's field, because of identity of character, fitness for the same use: but the batture is not fitted for ploughing or sowing. It is clear then that the batture has not a single feature of Alluvion; and divesting it of this misnomer, the whole claim of the plaintiff falls to the ground: for he has not pretended that it could be his under any other title than that of Alluvion.

We will now proceed to shew what it is, which will further demonstrate what it is not.

In the channel, or hollow, containing a river, the Roman law has distinguished the *alveus*, or bed of the river, and the *ripa*, or bank, the river itself being *aqua*, water. 'Tribus constant flumina, alveo, aqua, et ripis.' Dig. 43. 12. *not. 1. All above high water mark they considered as *ripa*, bank, and all below as *alveus*, or bed. The same terms have the same extent in the language of our law likewise. But we distinguish, by an additional name, that band, or margin of the bed of the river, which lies between the high and the low water marks. We call it the *beach*. Other modern nations distinguish it also. In Spanish it is *playa*, Ital. *piaggia*, in French *plage*, in the local terms of Orleans it is *bat-*

Bed, Beach, Bank.

*45

ture, and sometimes *platin*.* In Latin I know of no terms which applies exactly to *the beach of a river*. *Litus* is restrained to *the shore of the sea*, and there comprehends the beach, going to the water edge, whether at high or low tide. '*Litus* est maris, *ripa* fluminis,' says Vinnius in his Commentatory on the Inst. 2. 1. 4. and he confirms this difference of extent towards the water, ibid. where he says,

'Neque verò idem est *ripa in flumine*, quod *litus in mari*. Ripa flumini non subjicitur, ut litora subjiciuntur mari, et quotidianis accessibus ab eo occupantur.'

'Nor is the bank of a river, and the shore of the sea, the same thing. The bank is not subjacent to the river as the shores are to the sea, which are occupied by it in its daily accesses.

In our rivers, as far as the tide flows, the beach is the actual, as well as the nominal bed of the river, during the half of every day. Above the flow of tide, it is covered half the year at a time, instead of half of every day. The tide there being annual only, or one regular tide in a year. This, in the State where I am, begins about the first of November, is at its full tide during the months of January and February, and retires to its minimum by the end of April. In other States from North to South, this progression may vary a little. Hence we call them the Summer and Winter tides, as the Romans did theirs, *hibernus et æstivus*. The Mississippi resembles our fresh water rivers in having only one regular swell or tide a year. It differs from them in not

* Etymologies often help us to the true meaning of words; and where they agree in several languages, they shew the common sense of mankind as to the meaning of the word. In French *Batture* is derived from *Battre*, to beat, being the margin on which the surges beat. In English *Beach*, is from the Anglo-Saxon verb Beoĉian, Beaĉian, beatian, to beat: pronounced beachian, as christian, fustian, question, are pronounced chrischian, fuschian, queschion, &c.

In Spanish *Playa*, Italian *Piaggia*, French *Plage*, } are from πλαγὰ, πληγεὶς.

Platin from πλήττειν, percuture. Perhaps from *Plat*, F. flat.

Greek, ἀγειαλὸς' ἀκτὴ, from ἄγειν, agere.

ϑὶν, ϑινὸς, à ϑείνω, ferio, quia littus fluctibus feritur. Clav. Homer. A. 34.

Ῥηγμὶν, à ῥήσσω, frango. quia in litore fluctus frangitur. Ib. v. 437.

being subject to occasional swells. The regions it waters are so vast that accidental rains and droughts in one part are countervailed by contrary accidents in other parts, so as never
*46 to become *sensible in the river. It is only when all the countries it occupies become subject to the general influence of summer or winter, that a regular and steady flood or ebb takes place. It differs too in the seasons of its tides, which are about three months later than in our rivers. Its swell begins with February, is at its greatest height in May, June, and July, and the waters retire by the end of August. Its high tide, therefore, is in summer, and the low water in winter. Being regular in its tides, it is regular also in the period of its inundations. Whereas in ours, although the natural banks rarely escape being overflowed at some time of the season, yet the precise time varies with the accident of the fall of rains. But it is not the name of the season but the fact of the rise and fall which determine the law of the case.

Now the batture St. Mary is precisely within this band, or margin, between the high and low water mark of the Missisipi, called the beach. It extended from the bank into the river from 122 to 247 yards, before Mr. Livingston began his works, and these have added in one year, from 75 to 80 feet to its breadth. This river abounds with similar beaches, but this one alone, from its position and importance to the city, has called for a legal investigation of its character. Every country furnishes examples of this kind, great or small; but the most extensive are in Northern climates. The beach of the Forth, for example, adjacent to Edinburgh, is a mile wide, and is covered by every tide with 20 feet water. Abundance of examples of more extensive beaches might be produced; many doubtless from New-Hampshire and Maine, where the tide rises 40 feet. This therefore of St. Mary is not extraordinary but for the cupidity which its importance to the city of New-Orleans has inspired.

I shall proceed to state the authorities on which this division between the bank and bed of the river is established, and which makes the margin or beach a part of the bed of the river.

'Ripa est pars extima alvei, quò naturaliter flumen excurrit.' Grotius de Jour. B. et P. 2. 8. 9.

'Ripa ea putatur esse quæ *plenissimum* flumen continet.' Dig. 43. 12. 3. And Vinnius's commentary on this passage is 'ut significet, partem ripæ non esse, spatium illud, ripæ proximum, quod aliquando flumine, caloribus minuto æstivo tempore non occupatur.'

'Ripa autem ita rectè definietur, id quod flumen continet naturalem* rigorem† cursus sui tenens. Cæterùm si quando vel imbribus, vel mari, vel quâ alia ratione, ad tempus excrevit, ripas non mutat. Nemo denique dixit Nilum, qui incremento suo Ægyptum operit, ripas suas mutare, vel ampliare. Nam cum ad perpetuam sui mensuram redierit, ripæ alvei ejus muniendæ sunt.' Dig. 43. 12. §. 5.

'Alveus flumine tegitur.' Grot. de jur. B. ac P. 2. 8. 9.

'Alveus est spatium illud flumini subjectum per quod fluit.' Vinnii Partitiones jur. Civil. 1. 17.

The bank is the outermost part of the bed in which the river naturally flows.'

'That is considered to be bank, which contains the river when *fullest*,' and Vinnius's commentary on this passage is 'this signifies that the space next to the bank, which is sometimes not occupied by the river, when reduced by heats in the summer season, is not a part of the bank.'

'The bank may be thus rightly defined, that which 47* contains the river holding the natural direction of its course. But, if at any time, either from rains, the sea, or any other cause, it has overflowed a time, it does not change its banks. Nobody has said that the Nile, which by its increase covers Egypt, changes or enlarges its banks. For when it has returned to its usual height, the banks of its bed are to be secured.'

'The bed is covered by the river.'

'The bed is the space, subjacent to the river, through which it flows.'

Littus, in the Roman law, being the beach or shore of the sea, 'rivage,' definitions of that will corroborate the division between the *ripa* and *alveus*, *bed* and *bank* of a river. In both cases what is covered by the highest tide belongs to the public, all above it is private property.

† Rigor, à rectitudine dicitur, et est cursus aquæ rectum profluentis tenorem significans. Sic vigor stillicidii rectus ejus fluxus est. Calvini Lexicon juridicum, *rigor*. I have therefore translated it 'direction.'

'Litus est quousque maximus fluctus à mari pervenit. Idque Marcum Tullium aiunt, cum arbiter esset, primum constituisse.' Dig. 50. 16. 96.

'Est autem litus maris quatenùs hibernus fluctus maximus excurrit.' Inst. 2. 1. 3. the paraphrase of Theophilus adds, 'undè et æstate, usque ad ea loca litus definimus,' and his Scholiast subjoins 'non ut mediis caloribus solet, sed hibernus; quoniam hieme protissimum mare turbatur, mare est undabundum.'

'The shore is as far as the greatest wave of the sea reaches; and it is said that Marcus Tullius first established that when he was an Arbiter.'

'The shore of the sea is as far as the greatest winter wave reaches.' The paraphrase of Theophilus adds, 'wherefore, in summer also, we bound the shore by the same limits, and his Scholiast subjoins, 'not the wave of midsummer, but of winter; because the sea is most agitated, and most swelled.'

'By *shore*, the Institutes mean up to the high-water mark, or (where little or no tides, as in the Mediterranean) as high as the highest winter wave washes. 1. Brown's Civil and Admiralty law. B. 2. c. 1.

We must not, however, with Mr. Livingston, pa. 61. seize on the single word 'hibernus,' in the last quotations, and sacrifice *to that both the fact, and the reason of the law. 48* The substance of the *fact* on which the law goes, is that there is a margin of the bed of the river, covered at high water, uncovered at low. The season when this happens is a matter of circumstance only, and of immaterial circumstance. In the rivers familiar to the Romans the *maximus fluctus*, or highest wave, was in the winter; in the Missisipi it is in summer. Circumstance must always yield to substance. The *object* of the law is to reserve that margin to the public. But to reduce, with Mr. Livingston, the public right to the Summer water-line would relinquish that object. The explanations quoted from Vinnius, from Theophilus and his Scholiast, prove from the reason of the law, that the law of the winter tide for the Po, and the Tyber, must be that of the Summer tide of the Missisipi. The Spanish law therefore, is expressed in more correct terms; and we have the authority of Mr. Livingston [ibidem] for saying that the Justinian code is the common law of Spain.

'La ribera del rio se entiende todo lo que cubre el agua de el, quando mas crece, en qualquiera tiempo del año, sin salir de su yema y madre.' Curia Philipica. 2. 3. 1. cited Derb. 46.

'The bank of a river is understood to be the whole of what contains its waters, when most swelled, in whatsoever time of the year, without leaving its bed or channel.'

This is the law correctly for all rivers, leaving to every one its own season of flood or ebb.

To these authorities from the Roman and Spanish law, I will add that of the French Ordinance of 1681. §. 43. Art. 1. on the same subject.

'Sera réputé bord et rivage de la mer, tout ce qu'elle couvre et découvre [precisely the beach or batture] pendant les nouvelles et pleines lunes, et jusqu'où le grand flot de mer cesse de s'y faire sentir. Il est facile de connoître jusqu'où s'étend ordinairement le grand flot de Mars, par le gravier qui y est déposé; ainsi il ne faut pas confondre cette partie avec l'espace où parvient quelque fois l'eau de la mer par les ouragans, et par les tempêtes. Ainsi jugé à Aix le 11. Mai 1742.' Boucher, Institut au droit Maritime 2713. Nouveau Commentaire sur l'Ordonnance de la Marine. de 1681. tit. 7. Art. 1.

'The border and shore of the sea shall be reputed to be the whole which it covers and uncovers [precisely the beach or batture] during the new and full moons, and as far as to where the full tide of the sea ceases to be perceived. It is easy to know how far ordinarily the full tide of March extends; by the gravel which is deposited there; therefore we must not confound that part with the space where the waters of the sea come sometimes in hurricanes and storms.' So adjudged at Aix, May 11, 1742.

Let us now embody those authorities, by bringing together the separate members, making them paraphrase one another, and form a *single description. The Digest 43. 12. 3. with Vinnius's comment will stand thus. 'The bank ends at the line to which the water rises at its full tide; and although the space next below it is sometimes uncovered by the river, when reduced by heats in the Summer season, yet that 49*

space is not a part of the bank.' Now, substituting for 'the heats of the summer season' which is circumstance, and immaterial, the term 'low water,' which is the substance of the case, nothing can more perfectly describe the beach or batture, nor collated with the other authorities, make a more consistent and rational provision. 'The bank ends at that line on the levée to which the river rises at its full tide: and altho' the batture or beach next below that line is uncovered by the river, when reduced to its low tide, yet that batture or beach does not therefore become a part of the bank, but remains a part of the bed of the river,' for says Theophilus 'even in low water [et æstate] we bound the bank at the line of high water.' Inst. 2. 1. 3. 'The bank being the *extima alvei*, the *border of the bed*, within which bed the river flows when in its fullest state *naturally*, that is to say, not when 'imbribus, vel quâ aliâ ratione, ad tempus, excrevit,' not when 'temporarily overflowed by extraordinary rains, &c.' Dig. 43. 12. 5. but 'quando mas crece, sin salir de su madre, en qualquiera tiempo del año,' 'when in its full height, without leaving its bed, to whatsoever season of the year the period of full height may belong.' This is unquestionably the meaning of all the authorities taken together, and explaining one another.

From these authorities, then, the conclusion is most rigorously exact, that all is river, or river's *bed*, which is contained between the two banks, and the high water line on them; and all is *bank* which embraces the waters in their ordinary full tide.

Agreeably to this has been the constant practice and extent of grants of lands on the Missisipi. Charles Trudeau swears [Liv. 57.] that 'during 28 years that he has performed the functions of Surveyor General of this province, it has always been in his *knowledge*, that the grants of lands on the borders of the Missisipi, have their fronts on the *edge* of the river itself, and when its waters are *at their greatest height*.' And Laveau Trudeau [Liv. 58.] that 'the concession to the Jesuits, he believes, was like all the others, that is, from the river at its greatest height.'

Thus we see what the law is; that it has been perfectly understood in the territory, and has been constantly practiced on, and consequently that neither the grant to the Jesuits, nor to Bertrand Gravier, could have included the beach or batture.

It will perhaps be objected that, establishing the commencement of the bank at high water mark, leaves in fact no bank at all, as the high water regularly overflows the natural* bank or brim of the channel. And will it be a new phenomenon to see a river without banks sufficient to contain its waters at their full tide? The Missisipi is certainly a river of a character marked by strong features. It will be very practicable, by exaggerating these, to draw a line of separation between this and the mass of the rivers of our country, to consider it as *sui generis*, not subject to the laws which govern other rivers, but needing a system of law for itself. And until this system can be prepared it may be abandoned to speculations of death and devastation like the present. But will this be the object of the sound judge or legislator? it is certainly for the good of the whole nation to assimilate as much as possible all its parts, to strengthen their analogies, obliterate the traits of difference, and to deal law and justice to all by the same rule and same measure. The *bayous* of all that territory and of the country thence to Florida Point are without banks to contain their full tides. The Missisipi is in the like state as far as Bâton Rouge, where competent banks first rise out of the waters, and continue with intervals of depression to its upper parts. Many of the rivers of our maritime states are under circumstances resembling these. The channel which nature has hallowed for them is not yet deep enough, or the depositions of earth on the adjacent grounds not yet sufficiently accumulated, to raise them entirely clear of the flood tides. Extensive bodies of lands, still marshy therefore, are covered by them at every tide. In some of these cases, the hand of man, regulated by laws which restrain obstructions to navigation and injury to others, has aided and expedited the operations of nature, by raising the bank which she had begun, and redeeming the lands from the dominion of

Missisipi.

50*

the waters. The same thing has been done on the Missisipi An artificial bank of 3, 4, or 5 feet has been raised on the natural one, has made that sufficient to contain its full waters, and to protect a fertile and extensive country from its ravages. These are become the real banks of the river, on which the laws operate as if the whole was natural. The Nile, like the Missisipi, has natural banks, not competent in every part to the conveyance of its waters. In these parts artificial banks are, in like manner, raised, through which and the natural bayous and artificial canals the inundation, when at a given† height, is admitted; this being indispensable to fertilize the lands in a country where it never rains. And these banks of the Nile, natural and artificial, are recognized as such by the Roman law, as appears in *a passage of the Digest before cited, declaring that its banks, tho' inundated periodically, are not thereby changed. Nor are those of our rivers when temporarily overflowed by rains, or other causes. Wherever therefore the banks of the Missisipi have no high water line, the objection is of no consequence, because the lands there are not as yet reclaimed or inhabited; and wherever they are reclaimed, the objection is not true; for there a high water line exists to separate the private from public right.‡

Nile.

*51

† Justum incrementum [Nili] est cubitorum XVI; in XII. cubitis famem sentit: in XIII etiamnum esurit: XIV cubita hilaritatem afferunt: XV securitatem: XVI delicias: maximum incrementum, ad hoc ævi, fuit cubitorum XVIII. cum stetêre aquæ, apertis molibus admittuntur. Plin. hist. nat. 5. 9.

‡ This part of our subject merits fuller development. That the periodical overflowings of some rivers do not differ from the accidental overflowings of others, in any circumstance which should affect the law of the high water line, in the one more than in the other, will be rendered more evident by taking a comparative view of them. To begin with ordinary rivers. 1. These have along their greater part, and some of them through their whole course, natural banks adequate to the confinement of their waters, in the high water season, except in cases of accidental inundation. Here, then, the Roman authorities tell us the inundation does not change the bank, nor the landmark on it. 2. Along other parts, where the natural bank was not high enough to contain the river in its season of steady high water, the hand of man has raised an artificial bank on the natural one, which effects this purpose, with the exception, as before, of accidental inundations, where such happen. This artificial bank performs all the func-

Having ascertained what the batture is not, and what it is, and established the high water mark as the line of partition between the bed and bank of the river, we will proceed to examine to whom belongs ground on either side of that line? 52

Property in bed and bank.

tions of the natural, and is placed under the same law. 3. In other parts of them, the natural banks are still not high enough to contain the high tides, nor have they yet been made so by the hand of man. Here then the law cannot operate, because the local peculiarities, as yet, exclude the case from its provisions. The ground so covered by inundation, has been, or may yet be, public property. But the legislator, instead of holding it as the bed of the river, grants it to individuals as far as to the natural or incipient bank, that they, by completing the bank, may reclaim the land, for their own and the public benefit, and, this done, the law comes into action on it. Much of this reclaimed, and unreclaimed land exists in all these states.

I proceed next to rivers of particular character. Of which among those analogous to the Missisipi, the Nile is best known to us, and shall be described. That river entering Upper Egypt at its Cataracts, flows through a valley of 20 or 30 miles wide, and of 450 miles in length, bounded on both sides by a continued ridge of mountains. Through most of this course, its natural banks are sufficient to contain its waters in time of flood, till they rise to that height, at which, by their law, they are to be drawn off. In low parts, where the natural banks are not sufficient, they have been raised by hand to the necessary height. In addition also to the natural *bayous*, like those of the Missisipi, they have opened numerous canals, leading off at right angles from the river towards the mountains, and sufficient to draw off the greatest part of the current passing down the river. These, in ordinary times, are closed by artificial banks raised to the level of the natural ones. When the flood is at a height sufficient for irrigating and fertilizing the fields, which by the Nilometer is at 16 cubits above the bed of the the river, these artificial banks are cut, and the waters let in. The plain declining gently from the banks of the river, (which, like those of the Missisipi, are the highest ground,) towards the mountains, the waters are there stopped, as by a dam, and continue to rise, and diffuse themselves till they reflow nearly to the bank of the river. If the rise ceases there, the waters remain stagnant, and deposit a fertilizing mud, over the whole surface. But if uncommon rains above occasion a continuance of the rise till all the waters meet over the summits of the banks, then the motion of that in the river is communicated to the stagnant water on the plains, a general current takes place, and instead of a depositum left, the former soil is swept away to the ocean, and famine ensues that year. This, the traveller Bruce informs us, had happened three times within the 30 years preceding his being in that country. When the waters have withdrawn, and the river is returned into its natural bed, the banks are repaired in readiness to restrain the floods of the ensuing year. Such is the case in Upper Egypt. When the river enters Lower Egypt, it parts into two principal branches, the Pelusian

And 1. As to the bed of the river, there can be no question but that it belongs purely and simply to the sovereign, as the representative and trustee of the nation. If a navigable river indeed deserts its bed, the Roman law gave it to the ad- *53 jacent proprietors;* the former law of France to the

and Canopic, which diverge and reach the Mediterranean at about 200 miles apart, including between them the triangle called the Delta. Besides these, there are, within the Delta, three natural *Bayous*, and two canals, dry at low water, which make up the famed seven mouths of the Nile. The mountains diverge so as do the main branches of the river, the eastern going off to the isthmus of Suez, and the Western to the sea near Alexandria. The waters lessened by depletion, and spreading over a widening plain are reduced, by the time they reach the base of the triangle at the sea, to one or two cubits depth. Banks, therefore, of 3 to 4 feet high, are sufficient to protect the country until here also they open the *bayous* and canals which intersect the triangle. Here then the case recurs of a river whose natural banks are partly competent to contain its high waters in common floods, and are partly made so by the hand of man; so as to furnish an ordinary high water line. In extraordinary floods it overflows these banks, and in ordinary ones is let through them. Yet these inundations as the Digest declares, do not change the banks. 'Nemo dixit Nilum ripas suas mutare,' &c. But when the river retires within its natural bed, the banks are again repaired: 'cum ad perpetuam sui mensuram redierit, ripæ alvei ejus muniendæ sunt,' ib. [See 2. Herodot. 6—19. Strabo 788. 1 Univ. Hist. 391—413. 1 Maillet Description de l'Egypte 14—121. 1 De la Croix 338. Encyclop. Meth. Geographie. Nil. 1 Savary 3—14. 2 Savary 185—275. 1 Volney 34—48. 4 Bruce 364—407.]

1. The Upper Missisipi, like the Upper Nile, has competent natural banks through probably three fourths of its whole course. There then the Roman law is applicable in its very letter. 2. For about 400 miles more, the natural banks have been aided by artificial ones, on both sides, so as to contain all the waters of the flumen plenissimum: and the inhabitants there have no occasion as those of the Nile, to open their banks for the purpose either of fertilizing, or irrigating the lands. Here then there is still less reason, than in the case of the Nile, to say that 'the Missisipi has changed its bank.' 3. On the lower parts of the Missisipi and some of its middle portion, especially on the Western side, artificial banks have not yet been made, and the country is regularly inundated, as it is on those parts of our Atlantic rivers not yet embanked. But our increasing population will continue to extend these banks of our Atlantic rivers; and, for this purpose, our governments grant the lands to individuals. And the same, we know, is done on the Missisipi. The *Cyprieres* adjacent to New-Orleans, for example, though covered with the refluent water from the lake, we know have been granted to individuals, and will, with the rest of the drowned lands, be reclaimed in time, as all lower Egypt has been.

Thus then we find the laws of the Tyber and Nile transferred and applied to the Missisipi with perfect accordance, and that all rivers may be governed by

sovereign; and the new Code gives it as an indemnity to those through whose lands the new course is opened. But, while it is occupied by the river, all laws, I believe, agree in giving it to the sovereign; not as his personal property, to become an object of revenue, or of alienation, but to be kept open for the free use of all the individuals of the nation.

'Flumina omnia, et portus, publica sunt.' Inst. 2. 1. 2.

'All rivers and ports are public.

'Impossibile est ut alveus fluminis publici non sit publicus.' Dig. 43. 12. 7.

'It is impossible that the bed of a public river should not be public.'

'Litus publicum est eatenùs qua maximus fluctus exæstuat.' Dig. 50. 16. 96. 112.

'The seashore is public as far as the greatest wave surges.'

And 'littus' we have seen is the beach or shore of the sea.

'As to navigable streams and rivers, on which boats can ply, the property of them is in the king, as an incontestable right, naturally attached to the sovereignty; and since public things belonged to the people in the Roman republic, amongst us [in France] they must belong to our Sovereigns.' Julien, cited by Thierry 10. And Prevost de la Jannès, in his Principles of French Jurisprudence, after having said that the property of public things belongs to the king adds 'subject to the use thereof that is due to the people.' Thierry, ib.

In like manner, by the Common law of England, the property, *tam aquæ quam soli*, of every river, having flux or reflux, or susceptible of any navigation, is in the king; who cannot grant

the same laws. Other rivers are subject to accidental floods, which are declared however not to disturb the law of the *plenissimum flumen*. The Nile and Missisipi, not being subject to accidental floods, the *flumen plenissimum* with them is steady and undisturbed, and needs not the benefit of the exception. Nor will the reason of the law be changed, whether the cause of the inundation be the saturation of the earth and fountains, or rains, or melted snows, or the reflux of the ocean. The principle remains universally the same, that the land mark, when once established by a competent bank, is not changed by the inundation, or by any cause or circumstance of its high waters.

it to a subject, because it is a highway, except for purposes which will increase the convenience of navigation. 'The king has a right of property to the sea shore, and the *maritima incrementa*. The *shore* is the land lying between high water and low water mark in ordinary tides, and this land belongeth to the king *de jure communi*, both in the shore of the sea, and shore of the arms of the sea. And that is called an arm of the sea where the tide flows and reflows, and so far only as the tide flows and reflows.' Hale de jure maris. c. 4. cited in Bac. Abr. Prærog. B. 3.

So that I presume no question is to be made but that the bed of the Missisipi belongs to the sovereign, that is, to the Nation.

2. In the bank, from the high water line inland, it is admitted that the property or ownership, is in the Riparian proprietor of the adjacent field or farm: but the use is in the public, for the purposes of navigation and other necessary uses.

'Riparum quoque usus publicus est jure gentium [i. e. gentis humanæ] sicut ipsius fluminis: itaque naves ad eas appellere, funes *54 arboribus ibi natis religare, onus aliquod in his reponere, cuilibet liberum est, sicut per ipsum flumen navigare. Sed proprietas earum, illorum est, quorum prædiis hærent: quâ de causâ arbores quoque in eisdem natæ eorundem sunt.' Inst. 2. 1. 4. And Vinnius adds 'non ut litora maris, ita ripas, conditionem fluminis sequi.'

'Publica sunt flumina, portus, alveus fluminis quamdiu à flumine occupatus, ripæ. Harum rerum omnium, proprietas nullius, si ripas exciperis, quarum proprietas eorum est qui propè ripam prædia possidunt.' Vinnii Part. jur. L. 1. c. 17.

'The use of the bank is public by the law of nations [i. e. of nature] as to navigate the river itself. Therefore it is free for every *one to bring his ships to at them, to make fast ropes to the trees growing there, to discharge any load on them. But the property of them is in those to whose farms they adhere; for which reason the trees likewise growing on them, belong to the same.' And Vinnius adds 'the banks do not, like the shores of the sea, follow the condition of the river.'

'Rivers, harbors, the beds of rivers as long as occupied by the river, and the banks are public. The property of all these is in no one, if you will except the banks, the property of which is in those who possess the farms on the bank.

'Rivers, streams, high roads belong to all men in common; and although the soil of the banks of the rivers be an accession to the property of the owners of the contiguous land, yet all men may make use of them so far as to make fast their vessels to the trees which grow there, to repair them, and spread their sails on the banks; and they may there discharge their goods. Fishermen have also a right to dry their nets there, to expose their fish for sale on the banks, and in general to use them for every purpose of their art, or the occupation by which they live.' 3 Part id. 28. 6. cited Thierry 9.

'The same usefulness of the navigation of rivers demands the free use of their banks, so that in the breadth and length necessary for the passage and track of the horses which draw the boats, there be neither tree planted nor any other obstacle in the way.' Domat, Pub. law. 1. 8. 2. 9. To moor their vessels, spread their sails, unlade, sell their fish, &c. are here mentioned for example only, and not as a full enumeration of the variety of uses which, flowing from the public rights, may be exercised by them. In England it is said to have been decided that the public have no *common-law* right to tow upon the banks of navigable rivers. 3 Term. Rep. 253. cited Bac. Abr. highways A.

These authorities are so clear that they need no explanation. The text is as plain as any commentary can make it.

But there is an important limitation to these rights. Every individual is so to use them as not to obstruct others in their equal enjoyment. The space every one occupies on the bank or bed, as in a highway, a market, a theatre, is his for reasonable temporary purposes, but not to be held *permanently. The adjacent landholder may repair or fortify his bank to protect his land from inundation, but under the control of the magistrate, that his neighbors be not injured. He cannot divert the course of the stream, or even draw off water from it, to the injury of the navigation; nor erect any work which shall incommode the harbor or quai.

Limitations of the rights of property.

55*

'Ne quid in flumine publico, ripâve ejus, facias, ne quid in flumine publico, neve in ripa ejus immittas, quo statio, iterve navigio deterior sit. Dig. L. 43. t. 12. l. 1. Stationem dicimus a statuendo: is igitur locus demonstratur, ubicunque naves tutò stare possunt. ib. §. 13.

'Deterior statio, itemque iter navigio fieri videtur, si usus ejus corrumpatur, vel difficilior fiat, aut minor, vel rarior, aut si in totum auferatur. Proinde, sive derivatur aqua, ut exiguior facta minus sit navigabilis, vel si dilatetur, aut diffusa, brevem aquam faciat; vel contra sic coangustetur, et rapidius flumen faciat; vel si quid aliud fiat, quod navigationem incommodet, difficiliorem faciat, vel prorsus impediat, interdicto locus erit.' Dig. 43. 12. 15.

'Molino, nin canal, nin casa, nin torre, nin cabaña, nin otro edificio ninguno, non puede ninguno home facer nuevamente en los rios por los quales los homes andan con sus navios, nin en las riveras dellos, porque se embarrasse el uso comun dellos. E si alguno lo ficiesse y de nuevo, ó fuesse fecho antiguamente, de que viniesse daño al uso comunal, *debe ser deribado.* Ca non seria cosa guisada que el pro de todos los omes communalmente se estorbasse por la pro de algunos.' Partidas. 3. 28. 8. cited Derb. 48. Poydras 12.

'You are not to do any thing in a public river, or on its banks, you are not to cast any thing into a public river, or on its banks, which may render the station, or course of a ship worse. It is called a *station*, from statuere, to place: that place is intended where ships may safely stay.

'The station and course of a ship seems to be rendered worse, if its use be destroyed, or made more difficult, or less, or scantier, or if it be wholly taken away. Moreover, if water be drawn off, so that, being scantier, it is less navigable, or if it be dilated, or spread out, so as to make the water shallow, or if on the other hand it be so narrowed as to make the river more rapid; or if any thing else be done which incommodes the navigation, makes it worse, or wholly impedes it, there is ground for Interdict.'

'Mill, nor canal, nor house, nor tower, nor cabin, nor other building whatsoever, may any man make newly in the rivers along which men go with their vessels, nor on their banks, by which their common use may be embarrassed. And if any one does it anew, or were it anciently done, so that injury is done to the common use, it ought *to be destroyed.* For it would not be meet that the benefit of all men in common should be disturbed for the benefit of some.'

The owner of lands on the bank of a river may, however, make or repair a bank to protect them from the river.

*'Quamvis fluminis naturalem cursum, opere manu facto
*56 alio, non liceat avertere, tamen ripam suam adversus rapidi amnis impetum, munire prohibitum, non est.' Codex L. 7. t. 41. §. 1.

'Although it is not allowed to turn the natural course of a river by another made by hand, yet it is not prohibited to guard one's bank against the force of a rapid river.'

But he is not permitted to do even this if it will affect the public right, or injure the neighboring inhabitants.

'In flumine publico, inve ripâ ejus facere, aut in id flumen ripamve immittere, quo *aliter* aqua fluat quam priore æstate fluxit, veto.' Dig. L. 43. tit. 13. §. 1.

'I forbid any thing to be done in a public river, or on its bank, or to be cast into the river or on its bank, by which the water may be made to flow otherwise than it flowed in the last season.'

'Quod autem ait, *aliter* fluat non ad quantitatem aquæ fluentis pertinet, sed ad modum, et ad rigorem cursûs aquæ referendum est. Et si quod aliud vitii accolæ ex facto ejus qui convenitur sentient, interdicto locus erit.' Ib. §. 3.

'When he says, *to flow otherwise*, it relates, not to the quantity of water, but to the manner and direction of the course of the water. And if the neighbors experience any other evil from the act of him who is convened, there will be ground for interdict.'

'Sunt qui putent excipiendum hoc interdicto "quod ejus ripæ muniendæ causa non fiet," scilicet ut si quid fiat quo aliter aqua fluat, si tamen muniendæ ripæ causâ fiat, interdicto locus non sit. Sed ne hoc quibusdam placet; neque enim ripæ, cum incommodo accolentium, muniendæ sunt.' Ib. §. 6.

'Some think liable to this interdict only "what is not done for the purpose of strengthening the bank," to wit, that if any thing be done by which the water may otherwise flow, if nevertheless it was to secure the bank, there is no ground for interdict. But this is not approved by others, for that banks are not to be secured to the inconvenience of the inhabitants.'

More particularly full and explicit as to the inhibitions of the law against obstructing the bed, beach or bank of a sea or river, is Noodt, Probabil. Juris civilis. 4. 1. 1. After declaring that as to a house, or other such thing, built in a public river, the law is the same as obtains as to the sea and sea shore, he proposes to state, 1. The law respecting the sea and its shore, and 2. As it respects a river and its bank; and says,

'Ait Celsus maris communem usum esse, ut aëris; jactasque in id pilas fieri ejus qui jecit: sed id concedendum non esse, si deterior litoris marisve usus eo modo futurus sit. Adeo hoc quod in mari exstructum est, facientis est. Ut tamen exstruere liceat, et *decreto opus est*, et *ut innoxia ædificatio sit.* Porrò ut usus maris, ita usus litoris, sive communis, sive publicus est jure gentium; et ideò licet unicuique in litore ædificare, litusque ædificatione suum facere. Si tamen, ut in mari, ita in litore, *impetravit:* præterea si non eo modo deterior futurus sit usus litoris; vel nisi usus publicus *impedietur.* Hoc in mari litoribus jus est. Idem in fluminibus publicis, Ulpiano teste, Dig. 39. 2. 24. cum sic ait, 'fluminium publicorum communis est usus, sicut viarum publicarum et litorum. In his igitur *publicè* licet cuilibet ædificare, et distruere, dum tamen hoc sine incommodo cujusquam fiat.' Vult tamen Ulpianus, ut ædificari possit, ædificari *publicè* et *sine cujusquam incommodo;* pariter ut in mari et litore definitum: *publicè* inquam, seu *publicâ auctori-*

'Celsus says that the use of the sea is common, as is that of the air: and that stones laid in it were his who laid them, but that it was not to be admitted if the use of the shore or sea would be
the worse. So what is con- 57
structed in the sea is his who constructs it. But to make it lawful to construct, a decree is necessary, and that the construction be innocent. Moreover, as the use of the sea, so that of the shore, is either common or public, by the law of nations. And therefore it is lawful for any one to build on the shore, and to make the shore his by the building; if however, as in the sea, so on the shore, he has obtained permission: and provided besides, the use of the shore will not thereby be rendered worse, nor the public use be impeded. This is the law as to the sea and its shores. It is the same as to public rivers, according to Ulpian, Dig. 39. 2. 24. where he says, 'the use of public rivers is common, as of highways and shores. In these, therefore, any one may build up, or pull down, *publicly*, provided it be done

tate ; id enim hoc verbum, *publicè* indigitat.' And (§. 2.) citing Dig. 43. 12. 4. he says, 'quæsitum est, an is, qui in utrâque ripâ fluminis publici domus habeat, pontem privati juris [vel privato jure] facere potest; respondit non posse. Et si facit, interdicto teneri. Causa responsi est quod, cum pontem facit, usum fluminis publici facit deteriorem.' So far Noodt.

without *inconvenience to any one.*' That you may build, however, Ulpian requires that you build *publicly*, and *without inconvenience* to any one; in like manner as is prescribed as to the sea, and its shore: *publicly*, I say, or *by public authority ;* for that is what the word *publicly*, indicates. And §. 2. citing Dig. 43. 12. 4. he says, 'it is asked whether he who has houses on both banks of the river, may build a bridge, of his own private authority. He answers, he cannot; and if he does, he is bound by the interdict. The reason of the answer is, that by building a bridge he injures the use of a public river.' So far Noodt.

The same is the law as to highways and public places. 58
Dig. 43. 8. 2. 16.

'Si quis à principe simpliciter impetraverit ut in publico loco ædificet, non est credendus sic ædificare ut cum incommodo alicujus id fiat.'

'If any one obtains leave, simply, from the prince, to build in a public place, it is not to be understood he is so to build as to incommode another.

We see then that the Roman law not only forbade every species of construction or work on the bed, beach or bank of a sea or river, without regular permission from the proper officer, but even annuls the permission after it is given, if, in event, the work proves injurious; not abandoning the lives and properties of its citizens to the ignorance, the facility, or the corruption, of any officer. Indeed, without all this appeal to such learned authorities, does not common sense, the foundation of all authorities, of the laws themselves, and of their construction, declare it impossible that Mr. Livingston, a single individual, should have a lawful

right to drown the city of New-Orleans, or to injure, or change, of his own authority, the course or current of a river which is to give outlet to the productions of two-thirds of the whole area of the United States?

Such, then, are the laws of Louisiana, declaratory of the public rights in navigable rivers, their beds and banks. For we must ever bear in mind that the Roman law, from which these extracts are made, so far as it is not controlled by the Customs of Paris, the Ordinances of France, or the Spanish regulations, is the law of Louisiana. Nor does this law deal in precept only, or trust the public rights to the dead letter of law merely: it provides also for enforcement. The Digest. L. 43. tit. 15. de ripâ muniendâ, provides

§. 1. 'Ripas fluminum publicorum reficere, munire, utilissimum est,—*dùm ne ob id navigatio deterior fiat:* illa enim sola refectio toleranda est, quæ navigationi non est impedimento.'

§. 1. 'To repair and strengthen the banks of public rivers, is most useful: provided the navigation be not by that deteriorated; for those repairs alone are to be permitted which do not impede the navigation.'

§. 3. 'Is autem qui ripam vult munire, de damno futuro debet vel cavere, vel satisdare, secundum qualitatem personæ. Et hoc interdicto *59 expressum est, ut damni infecti, in annos decem, viri boni arbitratu, vel caveatur, vel satisdetur.'

Surety.

§. 3. But he who would strengthen his bank, should give either an engagement, or security against future injury, according to the quality of the person. And this *interdict establishes that the engagement, or security, against future injury, shall be for ten years, by the opinion of a good man.'

§. 4. 'Dabitur autem satis vicinis; sed et his qui trans flumen possidebunt.

§. 4. 'Security shall be given to the neighbors, and also to possessors on the other side of the river.'

'Ne quid in loco publico facias, inve eum locum immittas, quâ ex re quid illi damni detur. Dig. 43. 8. 2. Ad ea loca hoc interdictum

'You are to do nothing in any public place, nor to cast any thing into that place, from which any damage may follow. This inter-

pertinet, quæ publico usui destinata sunt: ut si quid illic fiat, quod privato noceret, Prætor intercederet interdicto suo. §. 5. Adversus eum qui molem in mare projecit, interdictum utile competit ei, cui forte hæc res nocitura sit: si autem nemo damnum sentit, tuendus est is, qui in litore ædificat vel molem in mare jacit. §. 8.—Damnum autem pati videtur, qui commodum amittit, quod ex publico consequebatur, qualequale sit. §. 11.—Si tamen nullum opus factum fuerit, officio judicis continetur, ut caveatur non fieri.' §. 18.

dict respects those places, which are destined for public use: and that if anything be there done, which may injure an individual, the Prætor may interpose by his interdict.—Against him who projects a mole into the sea, the *interdictum utile* lies for him to whom this may possibly do injury, but if nobody sustains damage, he is to be protected who builds on the sea shore, or projects a mole into the sea.—And he seems to suffer injury who loses any convenience, which he derived from the public, whatsoever it may be.—But if no work is done, he should be constrained by the authority of the judge to engage that none shall be done.'

'Seeing the use of rivers belongs to the public, nobody can make any change in them that may be of prejudice to the said use. Thus one cannot do any thing to make the current of the water slower, or more rapid, should this change be any way prejudicial to the public, or to particular persons. Thus although one may divert the water of a brook, or a river, to water his meadows or other grounds, or for mills and other uses; yet, every one ought to use this liberty so as not to do any prejudice either to the navigation of the river, whose waters he should turn aside, or the navigation of another river which the said water should render navigable by discharging itself into it, or to any other public use, or to neighbors who should have a like want, and an equal right.' Dom. Pub. law. 1. 8. 2. 11.

The same laws make it peculiarly incumbent on the government and its officers to watch over the public property and rights, and to see that they are not injured or intruded on by private individuals. In order to preserve the navigation of rivers, it is proper for the government to prohibit 60

and punish all attempts which might hinder it, or render it inconvenient, whether it be any buildings, fisheries, stakes, floodgates and other hindrances, or by diverting the water from the course of the rivers, or otherwise. And it is likewise forbidden to throw into the rivers any filth, dirt or other things, which might be of prejudice to the navigation, or cause other inconveniences.' Dom. Pub. L. 1. 8. 2. 8.

'Quoique la mer et ses bords soient, suivant les principes du droit naturel, des choses publiques et communes à tous, avec faculté à chacun d'en user selon sa destination, neanmoins il ne doit pas être permis aux uns d'en jouir au préjudice des autres. Ainsi pour prévenir les inconveniens qui seroient résultés de la liberté d'user de la chose commune, il a fallu que cette liberté fut limitée par la puissance publique, ainsi que s'en explique Domat, &c. Nouv. Comment. sur l'orden. de 1681. tit. 7. art. 2. Note.

'Although the sea and its shores, according to the principles of natural law, are things public and common to all, with liberty to every one to use them according to their destination, nevertheless it ought not to be permitted to some to enjoy them to the prejudice of others. Therefore to prevent the inconveniences which would result from the liberty of using the public property, it is necessary that that liberty be limited by the public authority, as explained by Domat,' &c.

'It is likewise agreeable to the law of nature, that this liberty, which is common to all, being a continual occasion of quarrels, and of many bad consequences, should be regulated in some manner or other; and there could be no regulation more equitable, nor more natural, than leaving it to the sovereign to provide against the said inconveniences. For as he is charged with the care of the public peace and tranquillity, as it is to him the care of the order and government of the society belongs, and it is only in his person that the right to the things which may belong in common to the public, of which he is the head, can reside; he therefore as head of the commonwealth, ought to have the dispensation and exercise of this right, that he may render it useful to the public. And it is on this foundation that

the Ordinances of France have regulated the use of navigation, and of fishing, in the sea and in rivers.' Dom. P. L. 1. 8. 2. 1. note. Observe that the work of Domat was published in 1689, and he died in 1696. *Dict. hist. par une so- 61*
ciété. *verbo* Domat. We know then from him the state of the laws of France, at a period a little anterior only to the establishment of the colony of Louisiana, and the transfer of the laws of France to that colony by its charter of 1712.

To the provisions which have been thus made by the Roman and French laws and transferred to Louisiana, no particular additions, by either the French or Spanish government, have been produced on the present occasion. We know the fact, and thence infer the law, that from a very early period, the governors of that province were attentive especially to whatever respected the harbor of New-Orleans, which included the grounds now in question. We see them forbidding inclosures, or buildings on them, pulling down those built, publishing bans against future erections, forbidding earth for buildings and streets to be taken from the shore adjacent to the city, and assigning the beach Ste. Marie for that purpose, protecting all individuals in the equal use of it as a Quai, in which cares and superintendence the Cabildo or City Council, participated; and on the change of government we see that council pass an Ordinance declaratory of the limits of the port of N. Orleans, and come forward in defence of the public rights, in the first moment of J. Gravier's intrusion, by pulling down his inclosure, and when that intrusion under the enterprise of Mr. Livingston, assumed a more serious aspect, they, as municipal guardians of the interests of the city, made an immediate appeal to the Judiciary, the Executive, and Legislative authorities. In addition, too, to the French laws for the protection of the bed and bank of the river, the territorial legislature, on the 15th of Feb. 1808, passed an Act, reciting that inasmuch as 'the common safety of the inhabitants of the shores of the river Missisipi depends not only on the good condition of the levées or embankments, which contain the waters of the said river; but also on

Levees and Police of Missisipi.

the strict observance of the laws concerning the police of rivers and their banks, *which are in force in this territory*, and by which it is forbidden to make on the shores of the rivers, any work tending to alter the course of the waters, or increase their rapidity, or to make their navigation less convenient, or the anchorage less sure, [almost in the words of the Roman law, 'ne quid in flumine publico'] they therefore enact that no levée shall be made in front of those which exist at present, but on an inquisition by 12 inhabitants, proprietors of plantations situate on the banks of the river, convoked for that purpose, by the Parish judge; that no such levée, which at the present time of passing this act shall happen to be commenced in front of others already existing, shall be continued or finished without a
62 like authorization; that those who act in contravention shall be fined 100 dols. for every offence in contravention, and pay the expenses of removing the nuisance, and costs of suit; and prohibiting the receiving compensation for the use of the shores under a penalty of 500 dols. A law of wonderful, not to say imprudent and dangerous tenderness to the riparian proprietors, who are thus made the sole judges in cases where their own personal interests may be in direct opposition to the interests, and even the safety of the city, to which it gives no participation or control over the power which may devote it to destruction.

This act is partly declaratory of the existing law, and partly additional. Application to the Prætor was under the Roman law (Dig. 43. 13. 6.) for permission to fortify a bank for the protection of a farm. He might refuse permission if injurious; but if he thought it would not be injurious, the party was to give security to make good all damages which should accrue within ten years; and this security was for the protection, not only of immediate neighbors, but of those also on the opposite bank 'trans flumen possidentibus.' The Governor and Cabildo seem to have held this Prætorian power in Louisiana, as well as that of demolishing what was unlawfully erected. This act of he Legislature, without taking the power from the Governor

and City Council, gave a concurrent power to the parish judge, and a jury of 12 riparians: and without dispensing with the security required by the existing law, adds penalties against contraveners.

And surely it is the territorial legislature, which not only has the power, but is under the urgent duty, of providing regulations for the government of this river and its inhabitants, regulations adapted to their present political regulations, as well as to the peculiar character and circumstances of the river, and the adjacent country. Their power is amply given in the act of Congress of 1804. c. 38. §. 11. 'The laws in force in the said territory at the commencement of this act, and not inconsistent with the provisions thereof, shall continue in force, until altered, modified, or repealed by the legislature. §. 4. The Governor, by and with advice and consent of the said legislative council, or of a majority of them, shall have power to alter, modify, and repeal the laws which may be in force at the commencement of this act. Their legislative powers shall extend to all the rightful subjects of legislation;' with special exceptions, none of which take away the authority to legislate for the police of the river. And if ever there was a rightful subject of legislation, it is that of restraining greedy individuals from destroying the country by inundation.

And here it must be noted that Mr. Livingston's works were arrested by the Marshal and posse comitatus, by an order from the Secretary of State on the *25th of January 1808, and on the 15th of the ensuing month, the legislature took the business into the hands of their own government, by passing this act. From this moment it was in Mr. Livingston's power to resume his works, by obtaining permission from the legal authority. The suspension of his works therefore by the general government was only during these 21 days.

Suspension of Liv.'s works, by whom?

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That Mr. Livingston's works were clearly within the interdict of the Roman, the French, and the Spanish laws, which forbid the extending a mole into the water, constructing in it mills,

floodgates, canals, towers, houses, cabins, fisheries, stakes or other things which may obstruct or embarrass the use, will result from a brief recapitulation of their character and effects, drawn from the statement before given. For it is not to establish a mill, which, though an intrusion would be but a partial one: it is not to erect a temporary cabin or fisherman's hut, which would be a minor obstacle: but it is to take from the city and the nation what is their port in high water, and at low tide their Quai; to leave them not a spot where the upper craft can land or lie in safety; to turn the current of the river on the lower suburbs and plantations; to embank the whole of this extensive beach; to take off a fourth from the breadth of the river, and add equivalently to the rise of its waters; to demolish thus the whole levée, and sweep away the town and country in undistinguished ruin. And this not as a matter of theory alone, but of experience: the fact being known that since the embankment of the river on both sides through a space of three or four hundred miles the floods are two or three feet higher than before that embankment. In fine, should they have time to save themselves from inundation by doubling the height and breadth of their levée, it is that they may fall victims to the pestilential diseases which, under their fervid sun, will be generated by the putrefying mass with which he is to raise up the foundation between the old and new embankments. But has he entitled himself to attain these humane achievements by fulfilling the preliminary requisites of the law? Has he obtained the Prætorian, or Pro-Prætorian license, that of the governor and city council, to erect this embankment? Has he given security for all the damages which shall be occasioned by his works for ten years? Has he even carried his case before a jury of 12 brother riparians? Or does he fear to trust it even to those having similar interests with himself? lest the virtuous feelings of compunction for the fate of their fellow citizens should scout his proposition with honest indignation? And yet, until this permission, every spadeful of earth he moved was an outrage on the law, and on the public peace and safety, which called for immediate suppress-

Their nature.

ion.* What was to be done with such an aggressor? Shall we answer in the words of the Imperial edict, on a similar occasion, that of breaking the banks of the Nile? Cod. 9. 38. 'Flam- 64*
mis eo loco consumatur, in quo vetustatis reverentiam, et propemodum ipsius imperii appetierit securitatem; consciis et consortibus ejus deportatione constringendis; sic ut nunquam supplicandi, eis, vel recipiendi civitatem vel dignitatem, vel substantiam, licentia tribuatur.' 'Let him be consumed by the flames in that spot in which he violated the reverence of antiquity, and the safety of the empire, let his accessories and accomplices be cut off by deportation from the possibility of supplicating forgiveness, or of being restored to country, dignity and possessions.' Our horror is not the less because our laws are more lenient.

Such, then, were the facts, and such the state of the law, on which we were called, and repeatedly and urgently called to decide: not indeed in all the fulness in which they have since appeared, but sufficiently manifested to show that an atrocious enterprise was in a course of execution, which if not promptly arrested, would end in a desolation for which we could never answer. The question before us was, What is to be done? What remedy can we apply, authorised by the laws, and prompt enough to arrest the mischief? Remedies.

1. Were the case within the jurisdiction of our own laws, its character and remedy would be obvious enough. A navigable river is a high way, along which all are free to pass. And as the obstructing a highway on the land, by ditches or hedges, or logs across it, or erecting a gate across it, is a common nuisance, so to weaken injuriously the current of a river, by drawing off a part of its water, to obstruct it by moles, dykes, weirs, piles, or otherwise, is a common nuisance; and all authorities agree, that every one is allowed to remove or destroy a common nuisance. Hawkins, P. C. 1. 75. 12. The Marshal and posse, instead of pleading the order from the Secretary of State, have a right to say 'we did this as citizens, and the law is our authority:' and it would really be sin- Abatement of Nuisance.

gular if, what every man may, or may not do, at his pleasure, the magistrate who is sworn to see the law executed, and is charged with the care of the public property and rights, is alone prohibited from doing; or if his order should vitiate an act which without it would have been lawful, or which he might have executed in person. It would be equally singular, and equally absurd, that the law should punish the magistrate for hindering Mr. Livingston from doing what itself had forbidden and would punish, and reward him with damages for having been
*65 restrained *from what they had forbidden him to do.

The law makes it a duty in a bystander to lay hands on a man who is beating another in the street, and to take him off. And yet it is proposed that the same law shall punish him for taking off one who was engaged, not in beating a single individual, but in drowning a whole city and country. This is not our law; it is not the law of reason; and I am persuaded it is no part of a system emphatically called *ratio scripta*. If it is, let the law be produced. Until it is, we hold every man authorised to stay a wrongdoer, in the commission of a wrong, in which himself and all others are interested.

Forcible entry.

2. By nature's law, every man has a right to seize and retake by force, his own property, taken from him by another, by force or fraud. Nor is this natural right among the first which is taken into the hands of regular government, after it is instituted. It was long retained by our ancestors. It was a part of their Common law, laid down in their books, recognised by all the authorities, and regulated as to certain circumstances of practice. Lambard, in his Eirenarcha. B. 2. c. 4. says, 'it seemeth that (before the troublesome raigne of king Richard the second,) the Common law permitted any person (which had good right or title to enter into any land,) to win the possession by force, if otherwise he could not have obtained it. For a man may see, (in Britton fo. 115.) that a certain respite of time was given to the disseisee, (according to his distance and absence,) in which it was lawful for him to gather force, armes, and his friends. and to throw the disseisor out of his

wrongful possession.' Hawkins in his Pleas of the crown, and all the Abridgements and Digests of the law say the same: but, not to take it at second hand, we will recur to the earliest authorities, written while it was yet the law of the land. Fleta in the time of E. 1. writes,

'Si facta fuerit diseissina, primum et principale competit remedium quod ille qui ita disseisitus est, per se, si possit, vel sumptis viribus, vel resumptis (dum tamen sine aliquo intervallo, flagrante disseisinâ et maleficio) rejiciat spoliantem. Quem si nullo modo expellere possit, ad superioris auxilium erit recurrendum. Si autem verus possessor absens fuerit, tunc locorum distantia distinguere oportebit, secundem quod fuerit propè vel longè, quo tempore viz. scire potuit disseisinam esse factam, ut sic, allocatis ei rationabilibus dilationibus, primo die cum venerit, statim suum dejiciat disseisitorem; qui, si primo die, non possit, in crastino, vel die tertio vel ulterius, dum tamen sine fictitiâ, hoc facere poterit, vires sibi resumendo, arma colligendo, auxiliumque amicorum convocando.' Fleta L. 4. c. 2. And Bracton L. 4. c. 6. in almost totidem verbis; and Britton 'le premer remedie pour disseisine est al disseisi de recollier amys et force et sauns delay faire (après ceo que il le purra saver) engetter les disseisours.' Britton c. 44.

'If a disseisin has been committed, a first and principal remedy lies, that he who has been so disseised, by himself, if he can, or taking force, and retaking, (provided it be without any interval, the disseisin and wrong being yet flagrant,) may eject the spoliator. Whom, if he can by no means expel, resort is to be had to the assistance of a superior. But if the rightful possessor were absent, then, regard must *be 66* had to the distance of the places, according as it was near or far off, at what time, for instance, he could know that a disseisin had been committed, that so, reasonable delays being allowed him, on the first day when he comes, he may immediately eject the disseisor, which if he cannot do on the first day, he may on the morrow, or third day, or later, provided however he do it without false pretences, by taking to himself force, collecting arms, and calling in the aid of his friends.' And Bracton L. 4. c. 6. almost in the same words; and Britton says, 'The first remedy for disseisin is for the disseisee to collect his friends and force, and without delay, (after he may know of it,) to eject the disseisors.'

This right, as to real property, was first restrained in England by a statute of the 5. R. 2. c. 7. which forbade entry into lands with strong hand; and another of the same reign, 15. R. 2. c. 2. authorized immediate restitution to the wrong doer, put out by forcible entry. And even at this day, in an *action* of trespass, for an entry, *vi et armis*, if the defendant makes good title, he is maintained in his possession, and the plaintiff recovers no damages for the force. Lambard 2. 4. Hawk. P. C. 1. 64. 3. And in like manner, the natural right of recaption by force still exists, as to personal goods, and the validity of their recaption. Hawk. 1. 64. 1. Kelway 92. is express. Blackstone, indeed, 3. 1. 2. limits the right of recaption to a peaceable one, not amounting to a breach of the peace; meaning, I presume, that the recaptor by force may be punished for the breach of the peace. So may the defendant in trespass for an entry *vi et armis*. Yet in an *action* of detinue for the personal thing retaken by force, the first wrong doer cannot recover it, nor damages for the recaption, any more than in the case of trespass for lands. So that to this day the law supports the right of recaption, as between the parties, although it will punish the public offence of a breach of the peace.

When this natural right was first restrained among the Romans, I am not versed enough in their laws to say. It was not by the laws of the XII tables, which continued *long their only laws. From the expression of the Institute, '*divalibus constitutionibus*,' I should infer it was first restrained by some of the Emperors, predecessors of Justinian. L. 4. t. 2. §. 2.

Roman law.

67*

'Divalibus constitutionibus prospectum est, ut nemini liceat vi rapere vel rem mobilem, vel se moventem, licet suam eandem rem existimat. Quod non solum in mobilibus rebus, quæ rapi possunt, constitutiones obtinere censuerunt, sed etiam in invasionibus, quæ circa res soli fiunt.'

'By the Imperial constitutions it is provided that no one shall take by force a thing either moveable, or moving, although he considers it as his own. Which the constitutions have ordained to take place, not only in moveable things, which may be taken, but also in intrusions which are made into lands.

But I believe that no nation has ever yet restrained itself in the exercise of this natural right of reseising its own possessions, or bound up its own hands in the manacles and cavils of litigation. It takes possession of its own at short hand, and gives to the private claimant a specified mode of preferring his claim. There are cases, of particular circumstance, where the sovereign, as by the English law, must institute a previous inquest: but in general cases as the present, he enters at once on what belongs to his nation. This is the law of England. 'Whenever the king's [i. e. the nation's] title appears of record, or a possession in law be called upon him by descent, escheat, &c., he may enter without an office found: for if his title appear any way of record, it is as good as if it were found by office: and if any one enter on him, even before his entry made, he is an intruder; he cannot gain any freehold in the land, nor does he put the king to an assize or ejectment, or take away his right of entry: for he cannot be disseised but by record. Stamford. Prærogativa regis. 56. 57. Com. Dig. Prærog. D. 71. the substance of the authorities cited.

What are the prescriptions of the Roman law in this case, I do not know; nor are they material but inasmuch as they may be the law of the case in Louisiana. A Spanish law before cited, p. 55. forbidding erections on the beds, or on the banks of rivers, says expressly, 'si alguno lo ficiese debe ser deribado.' 'If any one does it, it is to be destroyed.' And the constant practice of the Governors of demolishing such erections was the best evidence of the law we could obtain. Not skilled in their laws ourselves, we had certainly a right to consider the Governor and Cabildo as competent expositors of them, and as acting under their justification and prescription. We might reasonably think ourselves safe *in their opinions of their own law. 68*
In fact, if the immediate entry was permitted by the English law, and our own, we thought we might, *à fortiori*, conclude it permitted by those of the province. We had before us too the example of many of the states, and of the general government itself, which have never hesitated to re-

Squatters.

move by force the Squatters and intruders on the public lands.* Indeed if the nation were put to action against every Squatter, for the recovery of their lands, we should only have lawsuits, not lands for sale. While troops are on parade, should intruders take possession of their barracks, and shut the doors, are they to remain in the open air till an action, or even a writ of forcible entry replace them in their quarters? if in the interval of a daily adjournment, intruders take possession of the capitol, may not Congress take their seats again till an inquisition and posse shall reintroduce them? let him who can, draw a line between these cases. The correct doctrine is that so long as the nation holds lands in its own possession, so long they are under the jurisdiction of no court, but by special provision. The United States cannot be sued. The nation, by its immediate representatives, administers justice itself to all who have claims upon the public property. Hence the numerous petitions which occupy so much of every session of Congress in cases which have not been confided to the courts. But when once they have granted the lands to individuals, then the jurisdiction of the courts over them commences. They fall then into the common mass of matter justiciable before the courts. If the public has granted lands to B. which were the legal property of A., A. may bring his action against B. and the courts are competent to do him justice. The moment B. attempts to take possession of A.'s lands, the writ of forcible entry, the action of trespass or ejectment, and the Chancery process, furnish him a choice of remedies. The holders of property therefore are safe against individuals by the law; and they are safe against the Nation by its own justice: and all the alarm which some have endeavored to excite on this subject has been merely *ad captandum populum.* As if the people would not be safe in their own hands, or in

Jurisdiction in whom.

When it results to Courts.

* Squatters or Intruders on the public or Indian lands were repeatedly removed by the state of Virginia, before its cession to Congress, by the old Congress, (see Journ. 15 June 1785,) by the present government at various times, and, as is believed, by other individual states on the ground of natural right only. *MS. Note.*

those of their representatives; or safer in the hands of irresponsible judges, than of persons elected by themselves annually or biannually. The truth is, no injury can be done to any man by another acting either in his own or a public character, which may not be redressed by application to the proper organ to which that portion of the administration of justice has been assigned.

3. Our third and conclusive remedy was that prescribed by the act of Congress of 1807. c. 91. to prevent *settlements on lands ceded to the U. S. The Executive had been indulgent, perhaps remiss, in not removing Squatters from the public lands, under the general principles of law before explained and habitually acted on. This act therefore was a recent call on them to a more vigilant performance of their duty, in the special district of country lately ceded to them by France, with some modifications of its exercise on previous settlers. The act has two distinct classes of Intruders in view. 1. Those who, *before the passing of the act*, had possessed themselves of the lands, and were actually resident on them at the passing it: and 2. Those who should take possession *after the passage of the act*. 1. With respect to the class of Intruders *before* the passage of the act, the 2d section provides that, on renouncing all claim, they may obtain from the register or recorder, permission to remain on the lands, extending their occupation to 320 acres, §. 8. which permissions are to be recorded: but, §. 4. those not obtaining permission are, on three months' notice, to be removed by the marshal. But Mr. Livingston was much too wise to qualify himself for the benefit of these sections, by an actual residence on the batture. *His* part of the act therefore is the first section which enacts that 'if any person shall take possession of any lands ceded to the U. S. by treaty, he shall forfeit all right to them if any he hath; and it shall be lawful for the President of the U. S. to direct the Marshal, or the military, to remove him from the lands. Providing however that this removal shall not affect his claim until the Commissioners shall have made their reports, and Congress decided thereon.'

Act of Congress. 69*

The tribunal to which the legislature had specially delegated a power to take cognizance of the claims on the public lands in Orleans, and to inform them what lands were clear of claim, and free to be granted to our citizens, was a board of Commissioners: and the plain words and scope of the law were, to keep all claims and prior possessions *in statu quo*, until they could be investigated by these Commissioners, reported, and decided on by Congress. And this act indulgently provides that the right of a person removed by the Executive for irregularly taking possession of lands which he thought his own, should not be affected by this removal, but that he might still lay his claim before the Commissioners, and Congress would decide on it. Mr. Livingston's claim was clearly within the purview of the law. It was of lands 'ceded to the U. S. by treaty,' and he had 'taken possession of them *after the passage* of the act.' For the decree of the court was not till May 23, '07, and his possession was subsequent to that. If he should say, as his counsel seems to intimate, Opinions LXVII. that this was a *remitter* to him of the ancient possession *of Bertrand Gravier, I answer that it was no remitter against any one, because the case was *coràm non judice*, as will be shown, and still less against the U. S. who were no parties to the suit: and if it had been a remitter, then I should have observed that the order has been executed on a person not comprehended in it; for it was expressly restrained to possessions taken after the 3d of March '07, in that case the Marshal must justify himself, not under the order, but his personal right to remove a nuisance. But investigations, reports, and decisions of Congress were dangerous. It was safer to be his own judge, to seize boldly, and put the public on the defensive. He seizes the ground he claims, and refers his title to no competent tribunal. When ousted, according to the injunctions of the statute, and repossession taken on behalf of the U. S. he passes by the preparatory tribunal of the Commissioners, and endeavors to obtain a decision on his case by Congress, in the first instance: in this too he has been disappointed. Congress have maintained the

Remitter.

*70

ground taken under the statute; and Mr. Livingston now demands the value of the lands from the magistrate on whom devolved the duty of executing the statute.

Taking now a brief review of the whole ground we have gone over, we may judge of the correctness of the decision of the Cabinet, as to their duty in this case. Recapitulation.

I trust it will appear to every candid and unbiassed mind, that they were not mistaken in believing

That the Customs of Paris, the Ordinances of the French government, the Roman law as a supplement to both, with the special acts of the Spanish and American legislatures, composed that system of law which was to govern their proceedings.

That, were this a case of Alluvion, the French law gives it to the Sovereign in all cases; and the Roman law to the private holder of *rural* possessions only.

That Bertrand Gravier had converted his plantations into a fauxbourg, and appendage of the city of New-Orleans; with the *previous* sanction of the Spanish government, according to his own declarations, by which those claiming under him are as much bound, as if made by themselves; and certainly by its *subsequent* formal recognitions, and confirmations, which acted retrospectively; and the character of the ground being thus changed from a Rural to an Urban possession, the Roman law of Alluvion does not act on it.

That even had his ground retained its *rural* character, and admitting that the grant to him '*face au fleuve*' conveyed the lands to the water's edge, his sales, '*face au fleuve*' conveyed to his *purchasers the same right which the same terms had brought to him, and they, and not the plaintiff, now hold the rights of B. Gravier, whatever they were. 71*

That John Gravier having elected to take the estate as a purchaser by inventory and appraisement, the Batture, if Bertrand's, was not in that inventory, nor consequently purchased by John Gravier.

That the deed from him to De la Bigarre was fraudulent and void, as well by the *lex loci*, as on the face of the transaction.

That the decision of the court in his favor could in no wise concern the United States, who were neither parties to the suit, nor amenable to the jurisdiction.

And, consequently, that under all these views of the French law: the Roman law, the conveyances '*face au fleuve*,' the purchase by inventory, and the fraudulency of the deed to Bigarre, the plaintiff's claim is totally unfounded. And, if void by any one of them, it is as good as if void by every one.

But it has appeared further that the batture had not a single characteristic of alluvion:

That the *bank* of a river is only what is above the high water mark:

That all below that mark is *bed*, or alveus, of which the batture is that portion between the high and low water mark, which we call the *beach:*

That it serves, as other beaches do, for a port while covered, and Quai uncovered: and it is the only port in the vicinity of the city which river craft can use.

That, as a part of the *bed* of the river, it is purely public property.

That it is not lawful for an individual to erect, on either the bed or bank of a river, any works which may affect the convenience of navigation, of the harbor or Quai, or endanger adjacent proprietors on either side of the river.

That though it is permissible to guard our own grounds against the current of the river, yet, so only, as to be consistent with the convenience and safety of others.

That of this the legal magistrates are to be judges in the first instance; but even *their* errors are to be guarded against by an indemnification for all damages which shall actually accrue to individuals within a given time.

That Mr. Livingston's works, in a single flood, had given alarming extent, both in breadth and height, to the batture: had turned the efforts of the river against the lower suburbs, and

habitations, not before exposed to them; that they would deprive the public of what was their Quai in low water, and harbor* in times of flood: that, by narrowing the river one fourth, it must raise it in an equivalent proportion, to discharge its waters: that this would sweep away the levée, city, and country, or quadruple the bulk of the levée, and the increased danger to which that would expose it: and, even then, would infect the city, by the putridity of the new congestions, with pestilential diseases, to which its climate is already too much predisposed. 72*

That Mr. Livingston was doing all this, of his own authority, without asking permission from the public magistrate, or giving any security for the indemnity of injured citizens:

That under the pressure of these dangers, the Executive of the nation was called on to do his duty, and to extend the protection of the law to those against whose safety these outrages were directed:

And that the authorities given by the laws, 1. For preventing obstructions in the beds, or banks of rivers, 2. For re-seising public property intruded on; and 3. For removing intruders from it by force, were adequate to the object, if promptly interposed.

On duly weighing the information before us, which though not as ample as has since been received, was abundantly sufficient to satisfy us of the facts, and has been confirmed by all subsequent testimony, we were all unanimously of opinion, that we were authorised, and in duty bound, without delay, to arrest the aggressions of Mr. Livingston on the public rights, and on the peace and safety of the city of New-Orleans, and that orders should be immediately dispatched for that purpose, restrained to intruders since the passage of the act of March 3. The Secretary of State accordingly wrote the letter of Nov. 30, to the Governor, covering instructions for the Marshal to remove immediately, by the civil power, any persons from the batture Ste. Marie, who had taken possession since the 3d of March, and authorising the Governor, if

Orders of the Government.

necessary, to use military force; for which purpose a letter of the same date was written by the Secretary at war to the commanding officer at New-Orleans. This force however was not called on. The instructions to the Marshal were delivered to him about 9 o'clock in the morning of the 25th of Jan. 1808. [Dorgenoy's letter to the Governor] he immediately went to the beach, and ordered off Mr. Livingston's laborers. They obeyed, but soon after returned. On being ordered off a second time, the principal person told him that he was commanded by Mr. Livingston not to give up the batture until an adequate armed force should compel him.

Proceedings under them.

And, in the mean time, Mr. Livingston had procured, *73 from a single judge of the superior court of the territory,* an order, purporting to be an injunction, forbidding the marshal to disturb Edward Livingston in his possession of the batture, under pain of a contempt of court. The marshal, placed between contradictory orders, of the national government as to the property of the nation, and a territorial judge without jurisdiction over it, obeyed the former; collected a posse comitatus, ordered off the laborers again, who peaceably retired; and no further attempts were afterwards made to recommence the work.

I have said that the marshal received an order, purporting to be an injunction. An authoritative injunction it could not be; because that is a Chancery process, and no Chancery jurisdiction has been given by any law to the superior court of that territory. Its judges were first established by the act of Congress of 1804. c. 38. with commissions for four years, and certain specified powers, which it is unnecessary to state, because an act of March 2, of the next year, c. 83. established, in that territory, 'a government in all respects similar to that exercised in the Missisipi territory,' which government had been established by an act of 1798. c. 5. 'in all respects similar to that in the territory North-west of the Ohio.' So that we are to find all their powers in the Ordinance of 1787, for the North-Western territory, in which are the following words. 'There shall be appointed a court to consist of

Chancery Jurisdiction.

three judges, any two of whom to form a court, who shall have *a common law jurisdiction*, and their commissions shall continue in force during good behavior.' And again 'The inhabitants of the said territory shall always be entitled to the benefits of the writ of *Habeas corpus*, and of the trial by jury.' New commissions were accordingly given to the judges appointed under the first law, and, instead of their former powers, they were now to have *a common law jurisdiction*. By these words certainly no *chancery jurisdiction* was given them. Every one knows that common law jurisdiction is a technical term, used in contradistinction to a chancery jurisdiction, and exclusive of that, the common law ending where the chancery begins. The one authority is here given, and therefore they have it; the other is not given, and therefore they have it not. For they have no authority but that which is given by the legislature. If they have not chancery powers, then, by this law, there remains but one other source from which they can legally derive it. The act of 1804 before mentioned § 11, says, 'the laws in force in the said territory, at the commencement of this act, and not inconsistent with the provisions thereof, shall continue in force until altered, modified, or repealed by the legislature.' We have seen that the laws in force were the French and Roman, with perhaps some occasional Spanish regulations. It being perfectly understood that these were not meant to be included in the *change, it follows that the term *common law*, when 74* applied to this territory, must be equivalent to the common law of that land, or the law of the land. Was then the establishment of the French and Roman laws an establishment of the chancery system of law? Will it be said that the Roman and Chancery laws, for instance, are the same? That the *civil law*, and the *chancery* are synonymous terms, both meaning the same system? Nobody will say that. The system of chancery law is partly concurrent, but chiefly supplementary and corrective of that of the common law. It sometimes corrects the harshness of the letter, where that includes what was not intended. It gives remedies in certain cases where that gave

none, and more perfect remedies in other cases. It is adapted to the common law as one part of an indenture is to its counterpart. It is formed to tally with that in all its prominences and recesses, its asperities and defects, and with no other body of law on earth. It consists of a set of rules and maxims, modified by the English Chancellors thro' a course of several centuries, derived from no foreign model, but contrived to reduce specifically the principles of common law to those of justice. The Roman law has something similar in its *Jus Prætorium*, where the discretion of the Prætor was permitted to mollify and correct the harshness of the *leges scriptæ*. But to apply the *Jus Prætorium* to our common law, or our chancery to the *leges scriptæ* of the Romans, would be to apply to one thing the tally of another, or to mismatch the parts of different machines, so as to render them inconsistent and impracticable. Our chancery system is as different from the civil, as from the common law. All systems of law indeed profess to be founded on the principles of justice. But the superstructures erected are totally distinct. The chancery then being a system clearly distinct from that of the French and Roman laws, it cannot be said that the legislature of the U. S. by establishing the French and Roman laws in Orleans, established there the chancery system. It will not be pretended that the process of *subpœna*, used in the present case, and the sole and peculiar original process of chancery, is a civil law process. It is known to have been the invention of Waltham, Chancellor of Richard II. founded on the statute of Westminster the 2d c. 24. giving writs *in consimili casu*.

Might it be urged (for I am really at a loss to conjecture on what grounds this power has been assumed) that possessing under the act of '04, the powers of the chancery combined with those of the French and Roman laws, the subsequent act which gave them a common law jurisdiction, did not take away the others? *In totidem verbis* it did not, but in effect it did completely, by changing the government into one in all respects similar to that in the Missisipi territory, where there was no chancery jurisdiction. Moreover, there is not a word in the act

of '04, which gives them *chancery jurisdiction. It says, 'they shall have jurisdiction in all criminal cases, and original and appellate jurisdiction in all civil cases of the value of 75* 100 dollars, and the laws in force at the commencement of this act shall continue in force.' Here then is their jurisdiction, and the particular system of law according to which they are to exercise it, and the chancery made no part of that system. This argument too would suppose that to the French, the Roman, the Spanish, and the Chancery laws, the common law was also added. This would be an extraordinary spectacle, indeed, and the imputation of such an intention would be an insult to the legislature. Their laws have always some rational object in view; and are so to be construed, as to produce order and justice. But this construction, establishing so many systems, and these inconsistent and contradictory, would produce anarchy and chaos, and a dissolution of all law, of all rights of person or property. And what would be the consequences of carrying on a system of chancery concurrent with the French and Roman laws? A case is brought, for instance, into their court of chancery. I ask the honorable judges, is the law of chancery in this case, the same as the civil law? If the same, what need of calling in the system of chancery? If different, will you decide against the law established by the legislature? If you carry on two systems, the one of which, in any case, gives a right to A. and the other to B. the suitor who covets his neighbor's property needs only to chuse that court, the rules of which will give it to him. Thus all rights will be set afloat between two opposite systems. The wisdom of the legislature therefore has been as sound in not giving a chancery jurisdiction concurrently with the civil law, as the judges have been ill-advised in usurping it. And have they adverted to the national feelings, when they have ventured, on their own authority, to abolish the trial by jury pledged by the Ordinance to the inhabitants forever? Whoever wishes to take from his opponent the benefit of this trial, has only to bring his suit in the court of chancery. In this very case, on which the well-being of a great city is suspended, no

jury was called in. The judges took upon themselves to decide both fact and law; aware, at the same time, that a jury could not have been found in Orleans, which would not have given a contrary decision. I shall not ascribe either favoritism, or intentional wrong to them: but they ought not to be surprised, if those do whose interests and safety are so much jeopardised by this shuffle of the judges into the place of the jury. It is much regretted that these respectable judges have set such an example of acting against law. It will be more regretted if they do not, by the spontaneous exertion of their own good sense and self-denial, tread back their steps, and perceive that there is
*76 more honor and magnanimity in correcting, than *persevering in an error. They had before them too the example of their neighbors, of the Missisipi territory, whose government was expressly made the model of theirs. Their judges, like themselves, entitled to common law jurisdiction only, and sensible it needed the mollifying hand of the chancery, did not think the assumption of it within their competence. The territorial legislature therefore invested them with the jurisdiction. The Judiciary power of the Indian territory modelled by the same Ordinance, was enlarged in like manner by the local legislature. And yet the Orleans territory, least of all needed the aid of a Chancery, as possessing already a corresponding corrective, well adapted to the body of their law, to which the system of Chancery was entirely inapplicable.

Although I had before noted, pages 16, 68. that the decree of this court was a nullity as to the United States, 1. Because they were not a party, nor amenable to their tribunal; 2. Because also it was on a subject over which they had no jurisdiction, I have thought it useful to prove it a nullity; 3dly. Because the result of a process, and a course of pleading and trial belonging to a court whose powers they do not possess by law, in which course of action the law considers them as mere private persons, is entitled to the obedience of no one. I have done this the rather because it has been seized as a ground of censure on the Executive, as violating the sanctuary of the judicial depart-

ment, and of inculpating the Marshal, who, placed between two conflicting authorities, had to decide which was legitimate, and decided correctly, as I trust appears, in obeying that which ordered him to remove the plaintiff from an usurped possession.

The territorial legislature, three weeks after, took up the subject, and passed an act prescribing in what manner riparian proprietors should proceed, who wished to make new embankments in advance of those existing. This gave to Mr. Livingston an easy mode of applying for permission to resume his enterprise; and had he obtained a regular permission, certainly it would have been duly respected by the National Executive. On the 1st of March I received from Governor Claiborne a letter of Jan. 29. informing me of the execution of our orders, and covering a vote of thanks from the legislative council and House of Representatives of Orleans, for our interposition: and on the 7th of the same month, I laid the case before Congress by the following message.

Act of territorial Legislature.

'To the Senate and House of Representatives of the United States. In the city of New-Orleans and adjacent to it are sundry parcels of ground, some of them with buildings and other improvements on them, which it is my duty to present to the attention of the legislature. The title to *these grounds appears to have been retained in the former sovereigns of the province of Louisiana, as public fiduciaries, and for the purposes of the province. Some of them were used for the residence of the Governor, for public offices, hospitals, barracks, magazines, fortifications, levées, &c. others for the town house, schools, markets, landings, and other purposes of the city of N. Orleans. Some were held by religious corporations, or persons; others seem to have been reserved for future disposition.

Message to Congress.

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To these must be added a parcel called the batture, which requires more particular description. It is understood to have been a shoal, or elevation of the bottom of the river, adjacent to the bank of the suburb St. Mary, produced by the successive depositions of mud during the annual inundations of the river

and covered with water only during those inundations. At all other seasons it has been used by the city, immemorially, to furnish earth for raising their streets, and court yards, for mortar and other necessary purposes, and as a landing or Quai for unlading firewood, lumber, and other articles brought by water. This having lately been claimed by a private individual, the city opposed the claim on a supposed legal title in itself: but it has been adjudged that the legal title was not in the city. It is however alleged that that title, originally in the former sovereigns, was never parted with by them, but was retained by them for the uses of the city and province, and consequently has now passed over to the U. S. Until this question can be decided under legislative authority, measures have been taken according to law, to prevent any change in the state of things, and to keep the grounds clear of intruders. The settlement of this title, the appropriation of the grounds and improvements formerly occupied for provincial purposes to the same, or such other objects as may be better suited to present circumstances; the confirmation of the uses in other parcels to such bodies corporate, or private, as may of right, or on other reasonable considerations, expect them, are matters now submitted to the determination of the legislature. The paper and plans now transmitted, will give them such information on the subjects as I possess, and, being mostly originals, I must request that they may be communicated from the one to the other house, to answer the purposes of both. TH: JEFFERSON. *March* 7, 1808.'

Removal of the case before them.

This removal of the case before Congress closed the official duties of the Executive, and his interference respecting these grounds: except that the attorney of the United States for the district of Orleans having given written permission to the inhabitants to use the batture as before, this, on the application of Mr. Livingston, was directed to be withdrawn by a letter from the Secretary of State, of
*78 Oct. 5. '09. This was correct. It placed the inhabitants exactly *on their former footing, without either permission or prohibition on the part of the National government.

The *possession*, the only charge of the Executive, was now cleared from intrusion, and restored to its former condition: and the question of title committed to the Legislature, the only authority competent to its decision. If they considered the ground taken by the Executive as incorrect, their vote, or their reference of the case to Commissioners, would correct it: and as to damages, if any could justly be claimed, they were due, as in other cases, not from the judge who decides, but the party which, without right, receives the intermediate profits. If, on the other hand, Congress should deem the public right too palpable, (as to me it clearly appears,) and the claim of the plaintiff too frivolous, to occupy their time, they would of course pass it by. And certainly they might as properly be urged to waste their time in questioning whether the beds of the Potomak, the Delaware, or the Hudson, were public or private property, as that of the Missisipi. Their refusing to act on this claim therefore for five successive sessions, though constantly solicited, and their holding so long the ground taken by the Executive, is an expression of their sense that the measure has been correct.

Responsibility of a public functionary.

I have gone with some detail into the question of the plaintiff's right, because, however confident of indulgence, in the case of an honest error, I believed it would be more satisfactory to show, that in the exercise of the discretionary power entrusted to me by Congress, a sound discretion had been used, no act of oppression had been exercised, no error committed, and consequently no wrong done to the plaintiff. I have no pretensions to exemption from error. In a long course of public duties, I must have committed many. And I have reason to be thankful that, passing over these, an act of duty has been selected as a subject of complaint, which the delusions of self interest alone could have classed among them, and in which, were there error, it has been hallowed by the benedictions of an entire province, an interesting member of our national family, threatened with destruction by the bold enterprise of one individual. If this has been defeated, and they rescued, good will have been done, and with good intentions.

Our constitution has wisely distributed the administration of the government into three distinct, and independent departments. To each of these it belongs to administer law within its separate jurisdiction. The judiciary in cases of *meum* and *tuum*, and of public crimes; the Executive, as to laws executive in their nature; the legislature in various cases which belong to itself, and in the important function of amending and adding to the system. Perfection in wisdom, as well as in integrity, is
*79 neither required, nor expected in these *agents. It belongs not to man. Were the judge who, deluded by sophistry, takes the life of an innocent man, to repay it with his own; were he to replace, with his own fortune, that which his judgment has taken from another, under the beguilement of false deductions; were the Executive, in the vast mass of concerns of first magnitude, which he must direct, to place his whole fortune on the hazard of every opinion; were the members of the legislature to make good from their private substance every law productive of public or private injury; in short were every man engaged in rendering service to the public, bound in his body and goods to indemnification for all his errors, we must commit our public affairs to the paupers of the nation, to the sweepings of hospitals and poor-houses, who, having nothing to lose, would have nothing to risk. The wise know their weakness too well to assume infallibility; and he who knows most, knows best how little he knows. The vine and the fig-tree must withdraw, and the briar and bramble assume their places. But this is not the spirit of our law. It expects not impossibilities. It has consecrated the principle that its servants are not answerable for honest error of judgment. 1. Ro. Abr. 92. 2 Jones 13. 1 Salk. 397. He who has done this duty honestly, and according to his best skill and judgment, stands acquitted before God and man. If indeed a judge goes against law so grossly, so palpably as no imputable degree of folly can account for, and nothing but corruption, malice or wilful wrong can explain, and especially if circumstances prove such motives, he may be punished for the corruption, the malice, the wilful wrong; but not for the error:

he liable to action by the party grieved. And our form ernment constituting its respective functionaries judges of w which is to guide their decisions, places all within the eason, under the safeguard of the same rule. That in de- and acting under the law in the present case, the plaintiff, ay think there was error, does not himself believe there rruption or malice, I am confident. What? was it my or corruption which prompted the Governors and Cabil- keep these grounds clear of intrusion? Did my malice rruption excite the people to rise, and stay the parricide plifted to destroy their city, or the grand jury to present lator of their laws? Was it my malice and corruption penned the opinion of the Attorney General, and drew im a confirmation, after two years of further considera- nd when I was retired from all public office? Was it my or corruption which dictated the unanimous advice of the f departments, when officially called on for consultation vice? Was it my malice and corruption which procured mediate thanks of the two houses of legislature of the y of Orleans, and a renewal of the same thanks e same interference, in their late vote of February 80* Has it been my malice and corruption which has l the national legislature, through five successive sessions, eaf to the doleful Jeremiads of the plaintiff on his removal *is estate* at New Orleans? Have all these opinions then onest, and mine alone malicious and corrupt? Or has een a general combination of all the public functionaries n, French, and American, to oppress Mr. Livingston? No. ave done their duties, and his Declaration is a libel on se functionaries. His counsel, indeed, has discovered ns LXXIV] that we should have had legal inquests taken, f enquiry formed, prosecutions for penalties, with all the *as* of the law. That is that we should be playing push- h judges and lawyers, while Livingston was working tides to drown the city. If a functionary of the highest cting under every sanction which the constitution has

provided for his aid and guide, and with the approbation, pressed or implied, of its highest councils, still acts on his o peril, the honors and offices of his country would be but sna to ruin him. It is not for me to enquire into the motives of plaintiff in this action. I know that his understanding is of order much too high to let him believe that he is to recover value of the batture from me. To what indirect object he n squint with one eye, while the other looks at me, I do not p tend to say. But I do say, that if human reason is not m illusion, and law a labyrinth without a clue, no error has b committed: and recurring to the tenor of a long life of pul service, against the charge of malice and corruption I stand c scious and erect. TH: JEFFERSON

MONTICELLO, July 31, 1810.

For Mr. Livingston's Answer, see Hall's American Law Journal, Vol. 5, p. of the Baltimore edition of 1814.

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